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# LIVESTOCK GRAZING ON FEDERAL LAND

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Livestock Grazing on Federal Land,...

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS,  
AND LANDS

OF THE

COMMITTEE ON  
RESOURCES

HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

ON

**H.R. 1713**

**A BILL TO PROVIDE FOR UNIFORM MANAGEMENT OF LIVESTOCK  
GRAZING ON FEDERAL LAND, AND FOR OTHER PURPOSES**

JULY 11, 1995—WASHINGTON, DC

**Serial No. 104-38**

Printed for the use of the Committee on Resources



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U.S. GOVERNMENT PRINTING OFFICE



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## HEARING

BEFORE THE

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AND LANDS

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# LIVESTOCK GRAZING ON FEDERAL LAND

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TUESDAY, JULY 11, 1995

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS, COMMITTEE ON RESOURCES,

*Washington, DC.*

The subcommittee met, pursuant to call, at 10:01 a.m. in room 1324, Longworth House Office Building, Hon. James V. Hansen [chairman of the subcommittee] presiding.

## STATEMENT OF HON. JAMES V. HANSEN, A U.S. REPRESENTATIVE FROM UTAH AND CHAIRMAN, SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS

Mr. HANSEN. The committee will come to order.

This is the Committee on National Parks, Forests and Lands Subcommittee. We welcome you today.

The legislation before the subcommittee today is a very important measure to assuring the continued health of the Federal rangelands as well as the economy of the West. I would like to congratulate Congressman Wes Cooley for all of the hard work he has put into this measure.

The Livestock Grazing Act is a great step forward. It provides a viable, practical, and solid solution regarding the issue of grazing on Federal rangelands in the West. The measure before us would add some much-needed stability and certainty to the grazing program so that ranchers and their families can make a decent living and the banks that sort them can make good business decisions concerning lending money.

Most importantly, this legislation will end the false criticisms that grazing is another public subsidy. This simply is not true, and I believe H.R. 1713 makes great strides in taking that claim away from opponents. The grazing fee contained in the bill will bring about a fair return to the Treasury for grazing on public lands.

The ranchers in Utah and across the West are not looking for special treatment or government handouts. They expect to pay a fair price for the privilege of grazing livestock on public land and have worked to be good stewards of the ground. In return, they expect to be treated fairly by the Federal Government. This bill treats them fairly.

Unfortunately, the Department of Interior and the Clinton Administration have introduced regulations that would destroy rural communities across the West. The proposed regulations would lead to uncertainty for permittees and the lending institutions that loan them money based on their long-term tenure on public lands.

H.R. 1713 would reverse the Clinton Administration's onerous proposal. This legislation is a reasonable attempt to move away from heavy handed regulation and solve longstanding disputes over grazing fees, water rights, and the need to give grazing permittees the assurances they need to continue to operate on public lands.

I also believe the bill brings some common sense to the NEPA process by requiring that grazing activities be conducted according to land use plans prepared under that Act and by not requiring NEPA review for each individual management decision or permit renewal.

The livestock communities of Utah and the West have long had a cloud of uncertainty over them. H.R. 1713 gives us the opportunity to finally resolve this matter and to allow the ranchers of the West to continue to make a living and raise their families.

Mr. HANSEN. I want to welcome each of our distinguished witnesses to the subcommittee and thank each and every one of them for their testimony and each person for being here.

I will ask unanimous consent that I can call upon—without objection, no one is going to object. I can call upon Wes Cooley if he would like to give us some opening remarks. Then we will turn to our colleagues from New Mexico and California.

Mr. COOLEY. No, Mr. Chairman. I just wanted to thank you and your committee staff for all the work you have done on getting this on the schedule.

We do have a very tight time line and I think it is very important that we proceed, and so I would like to get this thing underway, but I want to make it a part of the record that I really, truly want to thank you for all the work that you and your staff have done to make this possible.

Mr. HANSEN. Thank you.

I don't see anybody on the Minority side at this point. This is going to be an awfully busy day. We are going to be running in and out with a lot of votes. I apologize to everyone for that beforehand, but it will occur.

We are grateful to have two of our distinguished colleagues here the gentleman from New Mexico and the gentleman from California. Joe, we will turn to you first and then to Wally Herger.

#### **STATEMENT OF THE HON. JOE SKEEN, A U.S. REPRESENTATIVE FROM NEW MEXICO**

Mr. SKEEN. Thank you, Mr. Chairman, and Mr. Cooley. I appreciate the opportunity to work with you on this grazing public lands issue as well as appear before you today to offer my thoughts and comments regarding H.R. 1713, the Livestock Grazing Act of 1995.

As all of you know, this is a subject that is near and dear to my heart. My colleagues are well aware of my long and continuing interest in the grazing issue. It is about time that the Congress address this matter and resolve many of the public lands issues once and for all, and once we resolve this grazing issue, I believe this committee, Congress, and the Administration should begin to explore ways to return a good portion of public lands back to the western States.

More than one-third of New Mexico is comprised of Federal lands and many of the ranches in the State depend on Federal leases to

provide a viable place for their livestock operations. However, I would like to point out that I purchased my Federal land many years ago, knowing that the Federal Government does not make a good business partner. I would like to see my neighbors have the same opportunity.

The Livestock Grazing Act is a good bipartisan compromise which would at long last provide for the uniform management of livestock grazing on Federal lands. It is in the public interest to implement this legislation which codifies existing law and regulations.

This bill would halt the efforts by some people who would like to drastically change the management practices on western grazing lands. This bill will promote, rather than thwart, our long-standing tradition of public grazing and stewardship.

There is a great contrast between this bill and Secretary Babbitt's rangeland reform. First of all, while the Secretary's measure does not include an increase in fees, which is fine with me, this bill does accept an increase in fees.

As many you know, I have fought against an arbitrary increase in grazing fees for many years. This legislation includes no such arbitrary and unfair increase. I can support this measure precisely because the fee increase is not capricious. At long last, this legislation would codify a formula for calculating grazing fees that ranchers could live with. This is a fair way to access the value of grazing on public lands and I believe this new formula would prevent economic disruption to the western livestock industry.

Moreover, the Livestock Grazing Act extends permit tenure from 10 to 15 years and includes a provision which will allow grazing operations to be handed down from one generation to another without an arbitrary penalty. This will add stability, equity, and continuity to ranchers and provides the opportunity for good, stable stewardship of the land.

If Federal land is priced out of use, most operations will immediately go out of business. The remaining operators will be adversely impacted by the uncertainty and lack of security which will ensue. Lending institutions lend money based on the long-term tenure provided by a stable formula and they will call in their loans if that security is removed. Without the ability to finance a loan, livestock operators will not stay in business.

This legislation accepts the idea of increasing grazing fees while knowing that there will be less oversight and regulation on the public lands users. This plan provides a reasonable alternative to Secretary Babbitt's proposal while promoting the economic beneficial use of public lands. Ranchers have played an integral part in our economy and this bill attempts to increase their opportunity to secure permanence with assured stewardship and responsibility.

Finally, and in line with the Congress' new effort at returning control to the local level, this approach allows grazing guidelines to be set at the local level rather than the Federal Government's one-size-fits-all approach.

This legislation represents months of work by many individuals in the western ranching community. I believe it is the best possible approach to resolving the long-standing differences that have sepa-

rated certain environmental groups and lawmakers from the important western industry.

Again, Mr. Chairman, thank you. I appreciate the opportunity to offer my thoughts and comments regarding the grazing issue and I look forward to returning to your committee so that we can talk about freeing up this public land for purchase or transfer.

Thank you very much, Mr. Chairman.

Mr. HANSEN. Thank you, Congressman Skeen.

Mr. SKEEN. Thank you for considering this bill today.

Mr. HANSEN. Congressman Wally Herger from California.

#### **STATEMENT OF THE HON. WALLY HERGER, A U.S. REPRESENTATIVE FROM CALIFORNIA**

Mr. HERGER. Thank you, Mr. Chairman, for this opportunity to testify regarding the Livestock Grazing Act of 1995. The issues addressed by this legislation are of primary importance to many in my district.

Mr. Chairman, I appear today on behalf of the farmers, ranchers and livestock owners in my northern California district. During my tenure in Congress, no class of Americans has borne a greater, more costly regulatory burden than these people. Over the past decade, they have helplessly watched their family farms and businesses slowly collapse under the increasing weight of environmental and land use laws, many of which move far beyond what is necessary to prevent the degradation of natural resources.

This growing regulatory regime has progressively locked up public lands that generations of families have responsibly and successfully managed for multiple uses. The irony of this Federal micromanagement of public land use is that all too often the government replaces common sense practices with procedurally intensive and often politically charged blanket policies which ultimately do more harm to our natural resources than good. Those who rely on public lands for their livelihood have a vested interest in keeping them healthy and productive for years and generations to come.

Nevertheless, it seems that Washington always believes it has a better idea. Nowhere have Federal practices been more prolific or resulted in more absurdities than in the policies and regulations that govern our rangelands. I was appalled, for example, to learn earlier this year that over 225 grazing permits in California, including 85 in my district, were in jeopardy of expiring without renewal due to an unprecedented determination by the Forest Service that these permit renewals required full NEPA review prior to turn out.

Although I was assured by Federal authorities that the required documents would be completed in a timely manner, I was dubious of their promise, given that only 43 such studies had been completed by the Forest Service for California permittees during the previous five years.

Mr. Chairman, now we are faced with pending regulations, popularly known as rangeland reform, which when implemented will further erode private property and water rights, dilute the voice of ranchers regarding how public lands should be managed, require the Secretary's stamp of approval on local management plans, and

enforce excessive and unfair punitive measures against those who, even unknowingly, fail to fully comply with this new law.

Mr. Chairman, what the Secretary touts as reform is nothing more than a thinly veiled attempt to end grazing on public lands. It is not right and we must stop it. The legislation that will be considered today is a common sense alternative to rangeland reform. It protects hard-earned private property and water rights and brings decisionmaking regarding the uses of public land back to the local level where it belongs without alienating or diluting the voice of those who are most affected by those decisions. It restores reasonable enforcement of grazing regulations and removes intimidation as a method of regulatory oversight. It also provides a long-term solution to the outrageous permit renewal problem which I described earlier.

Mr. Chairman, as introduced, the Livestock Grazing Act is a tremendous step in the right direction. But we are not there yet. In order for this legislation to provide a fully workable plan for range management it must, wherever appropriate, apply the statutory directives outlined for BLM to those lands managed by the Forest Service. This is especially true with regard to the requirement of full NEPA review for the renewal of individual grazing permits which I described earlier. This will bring healthy uniformity to our rangeland laws and remove any interagency confusion regarding how public lands should be managed.

Mr. Chairman, I again thank you and this committee for its dedicated work on this most important issue. I respectfully urge my colleagues here today to continue their efforts to make this bill one which will protect not only our rangeland, but also those who take the lead in preserving them for our posterity.

Thank you, Mr. Chairman and members.

Mr. HANSEN. Thank you, Congressman Herger.

Mr. HANSEN. We appreciate the testimony of our two colleagues from New Mexico and California. We have five panels today. We have a lot of people here to hear from. Unless someone has a burning desire to question Congressman Skeen and Congressman Herger, we will excuse them and thank them for their testimony.

Mr. SKEEN. Thank you Mr. Chairman. We will answer any burning questions that you might have. But we would just as soon burn ourselves out of here.

Mr. HANSEN. Thank you, Joe.

Mr. HERGER. Thank you.

Mr. SKEEN. Thank you.

Mr. HANSEN. Our next panel, we are honored to have Jack Ward Thomas, Chief of the Forest Service, U.S. Department of Agriculture; and Mike Dombeck, Acting Director, Bureau of Land Management, U.S. Department of the Interior with us. We also have Mr. Donald Bay with us. We appreciate the attendance of these distinguished gentlemen and if I may ask Mr. Dombeck and Mr. Thomas, how much time will your testimony take?

Mr. DOMBECK. I will take maybe six to seven minutes.

Mr. HANSEN. And Mr. Ward.

Mr. THOMAS. Not more than five; probably about three.

Mr. HANSEN. OK. Dawn, would you give Mr. Dombeck seven minutes and Mr. Thomas five minutes. You will see the green light

go on as you begin to talk. The yellow light will warn you to wind up. The red light will signal you to stop. Is that OK? I appreciate your cooperation..

Mr. Dombeck.

**STATEMENT OF MIKE DOMBECK, ACTING DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR**

Mr. DOMBECK. Thank you, Mr. Chairman. I appreciate the opportunity to testify on H.R. 1713, the Livestock Grazing Act. I have with me today Maitland Sharpe, Assistant Director for Planning and Assessment of the Bureau of Land Management, and sitting behind me is Tim Salt, a past area manager in the BLM Las Cruces district in New Mexico which is one of the largest grazing programs we have should we need information on technical questions.

Let me start out by saying that the Act would change many provisions of existing law and essentially replace BLM's new cooperative relations and grazing administration rules. The Department would default on its responsibility to the thousands of western citizens who helped shape BLM's regulations if we did not voice strong opposition to the Act. The Act will turn the clock back on public rangeland management.

Let me point out that we do not oppose livestock grazing. It is a traditional use of public lands. Over the decades, BLM has managed public lands for grazing along with other multiple uses such as recreation, hunting, fishing, logging, and mining.

As stated many times, in many places, the public rangelands are in better shape today than they were 50 years ago. This is due in part to a deeper understanding of range ecology and improved grazing practices implemented by ranchers and the agencies that manage these public lands together.

But we must do more to pass on sustainable resources to our children because: Millions of acres of public lands remain in poor condition; too many watersheds are not producing the full range of benefits; too many soils continue to lose fertility; the poisonous, exotic weeds problem is a "biological nightmare" for all interests in the West; and too many streams and riparian areas are degraded.

The BLM's strategy to improve rangeland health is built upon the collective wisdom of 60 years of applied science. It was shaped by over two years of public discussion. We have prepared a detailed comparison and analysis of BLM's old livestock grazing regulations, our new regulations, and the provisions of the Act that I am submitting as part of my written testimony. Our analysis makes clear our many strong objections to the bill.

I would like to speak to two principle differences between the bill and BLM's healthy rangelands strategy. First, the Act focuses public rangeland management on the single use of livestock grazing, deemphasizing other uses and values of public land such as mining, hunting, recreation, and wildlife.

Experience has proven that we cannot emphasize a single use of public land without compromising other uses. Where the Act concentrates exclusively on livestock production, our approach encourages collaborative management to sustain the land's overall productivity to meet the needs of not only public land ranchers, but



other public land users such as hunters, campers, and recreationists.

Second, the bill would severely limit public involvement in the management of public lands. Over the past 20 years, it has become clear that the most effective stewardship is for all people involved in natural resource management to have a say. As Theodore Roosevelt said, "common solutions to common problems for the common good."

We must move beyond public land users sitting at opposite ends of the table arguing over the use of shared resources, waiting for court-ordered solutions. The Act, as we see it, is a lawyer's dream, a recipe for polarization and litigation. If we regress to such management, the public lands and the people who depend upon them will suffer most.

The Act limits the ability of anyone who does not graze livestock to have a say in public land management and planning. To deny citizens a seat at the table, a voice in the process, would be a major step backward. In contrast to the bill, our program focuses on improving public input and understanding of good ranching practices that many stewards practice.

In order to bring all of those who use and care for public lands together, we have met with western governors or their staffs to select a model for creating diverse and balanced citizen advisory councils. We intend for local citizens to be in the lead. Our resource advisory councils are tailored to best meet the needs of all of those who use care and appreciate the public lands.

Over time, our approach will restore the productivity and diversity of hundreds of thousands of acres of riparian habitat; bring an additional 20 million acres of uplands into properly functioning conditions; they will benefit plants, fish, and animal species, including livestock; they will enhance recreational opportunities such as fishing, hunting, hiking, tourism, and wildlife viewing.

The health of our watersheds is ultimately what sustains livestock production in the West. BLM's healthy rangelands approach moves resource decisionmaking from Washington DC, to western rangelands. In contrast, the Act offers 93 pages of top-down direction to local managers and public land users. We believe those who live closer to the resources have a better understanding of how to manage the land to meet the people's needs.

The bill is a departure from traditional multiple-use management in that it appears to elevate one use over other uses of public lands. It changes the standards the courts apply and creates the potential for disruptive litigation for years to come.

We cannot allow lawsuits, judicial injunctions, and top-down remedies to impede our stewardship responsibilities.

BLM's approach provides flexibility. Let me show an example of the complexity of the Act. We wanted to get a picture of how the various provisions of the Livestock Grazing Act fit together and how the bill would affect public land management. So we took as our starting point evidence of overuse of a riparian area on an allotment. We worked through the process dictated by the bill to see what steps would have to be taken and how long it would take to deal with this apparent problem.

As you can see from the chart, it becomes a very long story. Five years of monitoring shows that the land is on the threshold of permanent damage. We then have to evaluate and implement all reasonable and viable alternatives to correct the problem. And if the first alternative doesn't work, we have to try the next. We may select a water development on the uplands to redistribute livestock. If the permittee protests, the full round of appeals take us to the year 2008. More monitoring to see if it works, new prescriptions because the problem wasn't solved. Another loop through the appeal cycle. Finally, we begin to implement stocking reductions phased in over five years. Finally, in 2018, reductions in livestock begin. Twenty-three years in time has elapsed.

Let me summarize by saying, limiting public participation in public rangeland management would fail both the land and those who depend upon it. For these reasons, and those set forth in the analysis that I am submitting, the Department of Interior and the Bureau of Land Management strongly oppose the Livestock Grazing Act.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Dombeck can be found at the end of the hearing.]

Mr. HANSEN. Mr. Dombeck, do you have small copies of the chart you just held up? I don't think any member of the committee could read that; at least I couldn't. You have eyes like a hawk.

Mr. DOMBECK. Yes, we do.

Mr. HANSEN. We would like to see that and we would appreciate if you would submit those to members of the committee. Thank you. If we could have those.

Mr. Thomas. We welcome you here and turn the time to you, sir.

**STATEMENT OF JACK WARD THOMAS, CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY MAITLAND SHARPE, ASSISTANT DIRECTOR FOR PLANNING AND ASSESSMENT, BUREAU OF LAND MANAGEMENT, AND TIM SALT, AREA MANAGER, BUREAU OF LAND MANAGEMENT, LAS CRUCES, NEW MEXICO**

Mr. THOMAS. Thank you. I appreciate the opportunity to provide the views of the Department of Agriculture concerning H.R. 1713. The Department of Agriculture does not support enactment of H.R. 1713 as it affects this Department.

Only two provisions in this bill affect programs under the jurisdiction of the Secretary of Agriculture. Title I, section 137, concerning grazing fees, and Title II, which would remove national grasslands from the National Forest System.

However, we would have serious concerns should the provisions of Title I be amended to include lands managed by the Forest Service. While we concur that the present system for determining grazing fees on Federal lands might be improved, it is not clear how this legislation would accomplish such improvement. If a change in fee systems is made, we recommend that the eastern and southern regions of the Forest Service be excluded from such change and continue to be governed by provisions in 36 CFR 222.

We object to the removal of the national grasslands from the National Forest System. The inclusion of the national grasslands in

the National Forest System in 1974 reflected the evolution of Federal conservation policy over many years. This gave the national grasslands equal status with the national forest and, at the same time, the original legislative intent which gave birth to the national grasslands was preserved.

The national grasslands rose from the dust of worn out land and impoverished and abandoned farms. That the grasslands have largely recovered and become part of the National Forest System reflects a resounding success story in American conservation. The national grasslands are important public resources on a par with other Federal lands and worthy of the same protection and considerations as apply to the national forests.

We remain committed to the principle that successful management requires a high degree of coordination and cooperation with individuals, organizations, local State and Federal agencies.

We do not concur that present concerns over the prominence and effectiveness of national grassland management would be resolved by removing them from the National Forest System nor by changing management objectives.

Title II would call for a program of dominant use management separate from that currently required by the National Forest Management Act. We are unable to discern a significant improvement or meaningful advantage to such approach. Creating separate, duplicative processes for grasslands does not appear to be cost-effective. While precise effects of Title II are difficult to determine because of ambiguous and undefined terminology, it is safe to say that these provisions would result in evermore debate, controversy, and litigation as to their meaning.

Other serious unanswered questions remain, such as the effect on the oil, gas, and coal industries that are extremely important on many grasslands and to their surrounding communities. Implications for more than 300 grazing permit holders who are not members of grazing associations is unclear.

Several unanswered questions and unresolved issues exist with the way the language is written. For example, some important terms such as "gross value of production" are not defined. We are also unable to determine how the connection between the fee to be charged and the data which would be required to be collected, or if the data applies to private and public grazing. We are concerned that the language as written would lead to yet another grazing fee study, perhaps on an annual basis.

Although in principle we agree with the approach of basing fees on value of production gain from grazing, it is not clear what the rationale is for charging a fee which is one-half of 1 percent of such value.

It is not clear how well the legislation fits nearly 4 million acres of grasslands located in 12 different States scattered from Texas to North Dakota, and also located in California, Idaho and Oregon. Such questions need to be addressed.

I would end by saying, if this applied to the national forest, we would have considerably more concern in terms of Title I.

Thank you, Mr. Chairman.

Mr. HANSEN. Thank you, Mr. Thomas.

[The prepared statement of Mr. Thomas can be found at the end of the hearing.]

Mr. HANSEN. Mr. Bay, do you have a statement?

**STATEMENT OF DONALD M. BAY, ADMINISTRATOR, NATIONAL AGRICULTURAL STATISTICS SERVICE, U.S. DEPARTMENT OF AGRICULTURE**

Mr. BAY. I am the administrator of the National Agriculture Statistics Service in USDA. And my comments are toward the technical side of the bill and the fee schedule and section 137. If I could have a minute or two, I would be happy.

Mr. HANSEN. How many minutes or two do you need?

Mr. BAY. Just two.

Mr. HANSEN. Give the gentleman three minutes.

Mr. BAY. The determination of actual grazing fees should continue to rest with the organizations that administer the fee and manage the Federal land rather than have it rest with the National Agriculture Statistics Service or the Economic Research Service. NASS or ERS may be the proper organization to collect and publish certain data series which in turn would be used by the Forest Service or the BLM to determine the actual grazing fee.

Currently the Forest Service and the BLM contract with NASS to collect certain data for determining grazing fees. The bill refers to total, gross value of production for livestock as determined by NASS. NASS does not determine such a figure. It is our understanding this actually refers to total gross value production per cow, which ERS provides.

This has recently been discontinued by ERS due to funding reductions which cause them to do cost of the production service on only commodities that are required by law. However, this law is enacted and ERS data series remains a key element. Funding would need to be available for collecting the necessary cow/calf cost production data to support this.

The bill states that NASS should collect considerable additional data and make a determination on grazing fees and surcharges based on that information. This additional data would have no bearing on future grazing fees or the surcharge since the formula described under the basic fee and surcharge section are very specific and does not allow for any deviation based on the additional data being requested. We are concerned about the added burden on ranchers of answering a great deal of additional questions that would not really be used in determining the grazing fees.

I realize these may seem to be very technical issues, but I hope you will agree that our concern about collecting only information that is needed and can be accurately reported by ranchers is important.

I would be happy to answer any questions about this section.

Mr. HANSEN. Thank you, Mr. Bay. We appreciate your comment.

[The prepared statement of Mr. Bay can be found at the end of the hearing.]

Mr. HANSEN. If I may state to the people that are here, it is a very warm day. Humidity is high. Feel free to take your coats off. Anything to make you comfortable. This a very warm situation.

I am going to recognize the members as they came into the room by order of their appearance. And we have five panels. I would like to caution everyone, five panels. There are going to be some fireworks on the Floor today. We are going to have a lot of votes coming up so we don't want to keep everyone here.

If you could stay within the five minutes, I would appreciate it. If you want somebody to yield to you, that is fine. If you absolutely need more time, please call upon me and I would be happy to give you more time.

Mr. Dombeck, I would just like to ask you one quick question and then we will move to the others. I notice in your written testimony and also the written testimony of some of the others, you all are concerned that there is no public interest. You turn to page 80 of the bill. Starting on line 18, it says, representation of interest. The members of the Resource Advisory Council shall be selected from among persons that represent historical use, multiple-use affected landowners, county social and economic interests, elected State and county officers, and the public at large.

This seems to me that is rather all-encompassing. How do you say there is no public interest there?

Mr. DOMBECK. Well, Mr. Chairman, let me say that our interpretation of the bill indicates that the Resource Advisory Councils have a macro role and they do provide that input.

However, the real activity where the rubber meets the road and the objective-setting process is with the Grazing Advisory Councils that are very limited, so we see the bulk of the critical decisions being made at that level, and for us to determine standing of an individual or individuals will ultimately be determined in the court.

So if we just follow the recommendations of a group dominated by permittees and ranchers, those that want to object will object and they will object to court, and the courts will determine whether an individual has standing in the process, and that is basically our interpretation of that dialog.

Mr. HANSEN. So in the judgment of BLM, you put the Grazing Advisory Council in a much higher place than you do the advisory council; is that right?

Mr. DOMBECK. Yes.

Mr. HANSEN. What criteria do you base that on?

Mr. DOMBECK. I will let Maitland answer that.

Mr. HANSEN. Would you identify yourself for the record, please.

Mr. SHARPE. My name is Maitland Sharpe. I am an assistant director of the Bureau of Land Management for Resource Assessment and Planning.

Thank you, Mr. Chairman. I think I can clarify this a little bit. When you read the provisions of the bill, you discover that you would grant to the Grazing Advisory Councils, for the first time, actual decisionmaking authority, and I quote, "the authority to set range improvement objectives".

When you read the definition of range improvements, you discover that under the terms of the bill, range improvements encompass virtually everything that we normally call range management: vegetative manipulation; dealing with water; watershed values;

dealing with habitat; the full range of range management activities, if you will.

All right. Under this combining of the two, we discover that the Grazing Advisory Councils are in fact given the authority to set the objectives and do the fundamental planning. They have the fundamental planning responsibility for allotment level management for everything having to do with the use and control of livestock on the ground.

In our view, this is an extraordinary departure from the structure of FLPMA, a departure that really pushes range management back to the very early years under the Taylor Grazing Act when the grazing boards were in de facto control of the range rather than the Federal managers. We are deeply concerned that this would thoroughly bind the hands of the Federal managers and essentially prevent our field people from carrying out our statutory obligation to protect and enhance the fundamental underlying resource base on the public lands.

That is the reason we are so concerned and, yes, you are exactly right, in our view, the practical effect of the bill would be to give to or award to the Grazing Advisory Councils the bulk of the most important duties, the most important decisionmaking capacity.

Mr. HANSEN. I respectfully disagree with you, but my time is expired. Let me say, I think we all have our own interpretations. It is like the scriptures, we can interpret them any way we want to. But on page 83, it says, "Responsibilities: In general, a Resource Advisory Council shall have the responsibility of advising the Secretary and appropriate State officials on major management decisions while working within the broad management goals established for the grazing district", which, to me, doesn't include them at all. But like I said, that is a matter of interpretation between us. And I know where you folks are coming from.

Mr. Cooley, who has worked so diligently on this bill, I recognize you for five minutes.

Mr. COOLEY. Mr. Dombeck, in your testimony—written and verbal—you talk about poor conditions. Would you tell me if you think poor conditions of our natural resources is overgrazing?

What do you mean when you say poor condition? How do you classify that?

Mr. DOMBECK. Let me elaborate a little bit on that. Number one, we all know that by and large the range condition is much better than it was at the turn of the century and the Taylor Grazing Act has been very effective in improving the health of particularly the uplands.

I spend a lot of time out West in your State and all the western States. I have been in a pickup with permittees and others that say, you know, if I was managing that, it wouldn't look like that. And you can drive an hour-and-a-half in any direction and someone is likely to say that to you.

The other important point is that the riparian areas, although not large in acreage, are the most important areas because of their important value to wildlife, to fishing, and to water quality in the West. Only 30 percent of the 100,000 miles of riparian area are in properly functioning condition.

Noxious weeds are a problem that is a concern for everyone. We estimate that some 2,300 acres a day are being infested by leafy spurge, white tops, and star thistle and other weeds.

Productivity of the land ultimately is what will sustain grazing and, I think, help all of the interests. We have many success stories in every State where areas are being improved.

Another important point about the condition of the land is to recognize that most operators are good stewards of the land and they are working with us to assure that the land continues to improve. What we see in this bill is it protects bad stewards and I don't understand why industry would want to protect bad stewards by binding the hands of resource managers from being able to deal with the problem.

Mr. COOLEY. Well, let's get to the bad steward part of it. You do now have the authority to take care of bad stewards. Are you doing so?

Mr. DOMBECK. Yes. We are making progress every year.

Mr. COOLEY. How many years have you been in the process of making this progress?

Mr. DOMBECK. Since the Taylor Grazing Act.

Mr. COOLEY. Do you think curtailing grazing is going to improve the conditions of our rangelands?

Mr. DOMBECK. In some cases, yes, but we have much documented evidence that grazing is compatible and we have areas where we implemented new restoration strategies and a variety of methods to redistribute livestock and allow vegetation at critical times of the year to sprout and develop the root mass that it takes to hold soil and preventing erosion. So there is progress being made every year. It is important that we continue that progress.

Mr. COOLEY. If you look at the legislation that is now pending, presented by the Secretary of Interior, do you think that this was a good legislation for the betterment of the industry and the use of the rangeland?

Mr. DOMBECK. You are referring to the rule that is currently scheduled to be implemented in August?

Mr. COOLEY. That is correct.

Mr. DOMBECK. I am not sure I completely understood the first part of your question.

Mr. COOLEY. I will make it real simple. If this legislation had not been presented—H.R. 1713—and we went into the rule that is now going to go into effect as presented by the Secretary of Interior, do you think that that rule will give you better control of the rangeland to the benefit of the public or do you think that H.R. 1713 gives us a more liberal look at it, a more wide spectrum, a more user-friendly legislation?

Mr. DOMBECK. I think the rule will allow us to move forward. And there is the concern about the paperwork thrust upon all the operators. In fact, the bulk of operators will have less paperwork because they are doing things right and we are not going to have to worry about them nearly as much. It is the operators, the 5 percent, or whatever the small percentage is, that are not doing a good job where our hands are going to be tied as in the 23-year example that I gave.

I have got to tell you there are not that many appeals. I asked my staff for a list of the appeals, the number of appeals that we have had on the thousands of grazing decisions over the years and I have got it tallied from 1986 to present. And it is, in most cases, less than a hundred, and I think that is a pretty good record.

Mr. COOLEY. My time is gone by. Let me close by saying, probably your appeal process is less than a hundred because people are frustrated with the system and feel that the appeal does not do them any good whatsoever. They lose anyway.

Thank you, Mr. Chairman.

Mr. HANSEN. Thank you.

Mr. Ensign.

Mr. ENSIGN. Thank you, Mr. Chairman.

I would just like Mr. Dombeck to discuss a little bit about the range improvement objectives and Federal control versus more of a local control which this bill seems to, at least in your opinion, give.

I was just recently in northeastern Nevada, up around the Elko area and it, I think through the most casual observer, has been a heavy rain year and a heavy snow fall year and there are a lot of grasses growing. It is very dense around there and the fear is that later in the summer there is going to be a tremendous fire danger.

What provisions are present now for your agency to increase the number in the herds that would be allowed to graze the land to cut down on that fire danger?

Mr. DOMBECK. I am not sure I can answer that directly. Let me ask Tim if he can provide a field perspective of that.

Mr. SALT. There are provisions.

Mr. HANSEN. Would you identify yourself, please.

Mr. SALT. I am Tim Salt. There are provisions both in the rules that are in effect now and the rule that would go into effect in August to provide for temporary, nonrenewable permits where, when additional forage is available on a temporary basis, that forage could be allocated.

Mr. ENSIGN. Are those difficult to get? So basically any ranchers that would want to apply for it, it would be fairly easy to get this year is what you are saying?

Mr. SALT. They are relatively easy to get.

Mr. ENSIGN. That is not the experience the ranchers in the Northeast in Nevada have told me. As a matter of fact, that is one of the reasons that I think a lot of the ranchers have been calling for a little more local input and local control.

And having grown up in Nevada and my family has been in Nevada since 1906, one of the problems I think the people from the West have with the whole idea of the Federal Government controlling the West is that most people in the Federal Government come from the East. And most people from the East don't understand what it is like living in the West.

Nevada has 87 percent of its land controlled by the Federal Government. You have people who have grown up with the ways of life and they know the West and they appreciate the West and they want to take care of the land. Most of these lands and grazing rights have been passed down from generation to generation, and



a lot of people in the West feel that their way of life is threatened by Federal bureaucrats.

Obviously, there is a lot of hostility out there toward Federal bureaucrats. I don't think that is something that they just created in their minds. There obviously has been something that has happened over the years to create that.

To people in the West and when you are looking at this bill and you are looking, that you know the Federal Government knows best, you know, I guess the people in Nevada would disagree that they could not maintain their lands in a better light.

That is really all I have, Mr. Chairman.

Mr. HANSEN. Thank you.

Mrs. Chenoweth.

Mrs. CHENOWETH. Thank you.

I want to first open my comments by thanking Senior Senator Larry Craig. I want to thank you, Mr. Chairman, and I want to thank Wes Cooley for putting together a bill that was extremely difficult to do. But we saw the leaders and sponsors of this bill work with the industry and with the agencies, and I am just very proud of seeing democracy work at its best. Truly, this is what our founding fathers envisioned in a good citizen government, good citizen input, and I just thank both you gentlemen very much for the hard work that I know you put into this bill.

The gentleman who is sitting to the right of Mr. Dombeck, you mentioned that—what is your name?

Mr. SHARPE. My name is Maitland Sharpe.

Mrs. CHENOWETH. Mr. Sharpe, you mentioned that this is a sharp departure from FLPMA.

Mr. SHARPE. Yes, ma'am.

Mrs. CHENOWETH. With regard to the grazing rights, let me read to you from FLPMA. FLPMA reaffirmed the concept of the Taylor Grazing Act in section 1752. You might make a note of it where it says "the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or the lease".

It again reaffirms in FLPMA the following. You might make a note of it, 1752(d). "If the Secretary concerned elects to develop an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation, and coordination with the lessees, permittees, and landowners involved."

Furthermore, PRIA passed after FLPMA reaffirmed this concept in section 1901(a)(5) where it said Congress found that "to prevent disruption and harm to the western livestock industry, it is in the public interest to charge a fee for livestock grazing permits and leases on the public lands which is based on a formula reflecting annual charges in the cost of production."

But FLPMA and PRIA cases involving the Ninth Circuit Court of Appeals cases, Supreme Court cases, such as Shufflebarger versus Commissioner IRS established in 1955 that the grazing permit has a value and an equity value and can be taxed. Pankey Land & Cattle Co. versus Hardin, 1970, in the Tenth Circuit Court of Appeals reaffirmed the preference in grazing rights. The Red Canyon Sheep Co. versus Ickes in 1938 reaffirmed the preference in grazing rights. And I would submit to you, sir, that the BLM is

moving from what has been historic law to a political position that is creating a situation in our western States.

We will not only lose the strong economic base, but a cultural base that we are very, very proud of. We are very proud of our livestock industry and a whole body of law backs up their preference right. And I don't think that this law changes that. I think it opens up the public input.

Mr. SHARPE. I understand that, Congresswoman. On the fundamental point, I want to assure you that we individually and as a bureau share their commitment, the commitment of the other people in this room, to maintaining a viable, healthy, vibrant livestock industry on these public lands. We share your commitment to the culture and the values of these ranching families and their communities.

We share your commitment to maintaining this economic underpinning of these important rural western communities. We share that. That is among our major goals.

I do not believe that the policies of the bureau nor the provisions of the rule that was promulgated on February 22nd would in fact, in practice as played out over time, undermine those values at all.

On the question of law, I am aware of the CCC provision. I am certainly aware of the preference provisions of the Taylor Grazing Act. But what neither FLPMA nor PRIA did was give to Grazing Advisory Councils or the equivalent any authority, any decision-making authority, any planning authority. Grazing councils were advisory in nature, exclusively advisory and planning authority—

Mrs. CHENOWETH. I appreciate your answer. You have answered my question.

I do want to ask Mr. Dombeck before my time is up or make a statement that the Levie spurge exotic plant we were having as much problem with in Idaho in private land as on public land, it is a very toxic plant. I would like to see the Federal Government and our State work together to resolve our problem, but this is not enhanced by the livestock industry.

I do want to say that you referred to Teddy Roosevelt's statement before that "we need common solutions for common problems to the common good," but I want to remind you that it was Teddy Roosevelt who signed the Executive order that created grazing as one of the preference rights in the forest.

And finally, I would like to ask you a question with regards to your policy regarding the community interest. For instance, let me present a scenario to you. If a house was burning and a juniper tree was burning down, where should your employee's interest be, in helping the people whose house is burning down or helping the juniper tree?

Mr. DOMBECK. Well, I think public safety is number one priority, of both employee safety and public safety. And, by the way, we are delighted to work with you on the noxious weed problem. We understand the tremendous complexity of that problem out there.

Mrs. CHENOWETH. Especially the Levie spurge.

Mr. DOMBECK. We are enhancing our capability to deal with that.

Mrs. CHENOWETH. I would look forward to that very much.

And then Mr. Thomas, I appreciate your work and I want to say that out there in Idaho, if it weren't for grazing on our Forest Serv-

ice lands, our fire hazards would even be greater, and I look forward to working with your agency on that, either through this bill or separate legislation.

Thank you, Mr. Chairman.

Mr. HANSEN. Thank you.

Mr. Radanovich.

Mr. RADANOVICH. Thank you, Mr. Chairman.

**STATEMENT OF HON. GEORGE P. RADANOVICH, A U.S.  
REPRESENTATIVE FROM CALIFORNIA**

I want to make a couple of points, but mainly to say I appreciate the work that Mr. Cooley has contributed and I am glad to be a supporter. I want to make note that grazing fees are included in this bill.

I have a concern regarding this legislation, as it does not apply to Forest Service land. In my district, which includes the Sierra National Forest, and we had a particular incident happen during this grazing season, and it kind of speaks to the fact that I would object to the gentleman's comments that they were respecting the economic underpinning of the region in the administration of Federal lands. This case is a perfect example of where that has not occurred.

As you are aware, the Sierra National Forest was subject to a lawsuit by an environmental group called Cal Trout, which forced NEPA requirements on their grazing act permits. These people have been running cows up in the Sierras for 20 years, but all of a sudden were subjected to a NEPA process that was the time allotments for appeal and such, ran it clear through the grazing season.

Many people, because they were subjected to the NEPA permit process, forced the possibility of them missing an entire grazing season up in the Sierras. And, fortunately, we were able to intervene and get that process back on track, but it created some severe problems where individuals were facing contracts in other areas to graze while this problem got resolved or herd sell-downs, which are subject to capital gains, and really created severe losses for these cattlemen.

Mr. RADANOVICH. So I take issue with your comment that there was respect given to the economic underpinning of the area, because in that case it certainly was not.

The other point that I wanted to make was that in that case, Mr. Thomas, do you think it is accurate to say that all ranchers have been mistreated by the Forest Service in this manner? My main concern is that something like this does not occur, and that is why I would like to see Forest Service lands brought under this grazing bill.

Mr. THOMAS. To answer that question, the point being, we got sued; we don't control Cal Trout. The judge said we should have done NEPA. We are struggling now to get through as much of that as we can. We will be on time, I think.

We have to obey the law, and I think the law makes good sense in many cases, but what we do is, we found out that we weren't in obedience to the law. Whether that is abusive or not is a matter

of a response to Federal law that was passed by this body. We merely enforce it.

Mr. RADANOVICH. My point is that if a grazing board had more jurisdiction over this issue than our Federal administrator, that they would have seen the sense to allow grazing to occur while the NEPA permit was in the process.

Mr. THOMAS. I suspect not, Congressman. I don't read this as overriding the Federal courts, and if that grazing advisory board gave advice that was contrary to the law and a Federal court popped you, I suspect the result would be exactly the same.

Mr. RADANOVICH. The point is that whether it be an issue of the law or regulation of Forest Service lands, that should not occur. Now, if it means a change in the law, something like that simply does not respect the fact that people have been grazing cows there for 20 years and does not respect what has been defined as the economic underpinning of the area.

Clearly then, it should not be the role of the Forest Service to be led by the threat of lawsuit in the development of their environmental policy, which is exactly what is going on in the Sierra National Forest.

Mr. THOMAS. I disagree with that totally, sir.

Mr. RADANOVICH. Well, sir, I disagree with you, because I am there, I have seen all of that.

Mr. THOMAS. Sir, I have been there, too. Can I answer the question?

Mr. RADANOVICH. Sure.

Mr. THOMAS. Part of it is, we have to obey the law. We don't make the law. We responded to the law, and we lost in court. Now, whether that was an appropriate override of the rancher's rights or not was not an agency decision. It would not have been a grazing advisory committee decision either. It would have been whether we were in obedience to the law, and the court said no. So we began to come into obedience as quickly as we possibly could, one, because that is what we are supposed to do and, two, to quickly protect the rights of these permittees as fast as we possibly could under the circumstances.

Mr. RADANOVICH. Yes, well, you know then, maybe you and I can work together to change the law. But it is my firm conviction that the Forest Service is administering policy under threat of lawsuit, not really what is best for the sake of the forests and Federal lands, and that is why I intend to introduce an amendment to include Forest Service land in there.

Thank you.

Mr. THOMAS. Mr. Chairman, could I respond to that?

Mr. HANSEN. Yes, go ahead.

Mr. THOMAS. Of course, it is your prerogative. We would strongly object to that. And the second part of it is, I think there is confusion. We were not in obedience to the law. That is up to the courts to decide. You are laying a hit on the Agency that is not appropriate.

Mr. DOMBECK. Mr. Chairman, I would like to make one comment here, if I may.

Mr. HANSEN. Go ahead.

Mr. DOMBECK. In response to your question, I think we have common objectives based on this dialog, and the way to move resource management decisions out of the courtroom is by building agreement at the local field level because that is what prevents these lawsuits. I think it is important that the livestock industry help educate skeptics that livestock grazing can be compatible with other uses and not protect the few bad players.

By people sitting around, not in Washington, DC, but sitting around in the local community, looking at the land, talking about goals and objectives and how they can achieve consensus in educating all of the players is, I think, the way that we avoid the litigation.

Mr. RADANOVICH. That is fine, and with respect to the Chairman's time request, I would like to conclude by saying that I don't see any reason why a grazing board can't deal with those that aren't good stewards or the bad users of permittee land just as much as a Federal administrator could.

So, you know, if you can get the implementation of that down to the local level and let them—you know, there is such a thing as peer review—let them take care of this problem themselves. I see no reason why that can't happen, as opposed to that responsibility being given to a Federal administrator.

Mr. HANSEN. Thank you.

Mr. THOMAS. I need a clarification, Mr. Chairman. That is why you have staff with you.

The particular case we are talking about was not a suit, you are correct. We settled out of court because our attorneys essentially told us we had no legal defense against the question.

I apologize.

Mr. HANSEN. Thank you.

The gentlelady from Wyoming, Mrs. Cubin.

Mrs. CUBIN. Thank you, Mr. Chairman.

First, I have a statement that I would like to have in the record.

Mr. HANSEN. Without objection.

Mrs. CUBIN. Thank you.

[The prepared statement of Hon. Barbara Cubin appears on page 20.]

It seems like a lot of discussion has taken place about public participation in the process, and that certainly is one of the criticisms of the LGA.

On June 15th I attended and testified at a hearing where Secretary Babbitt also testified. Practically everyone at the hearing was opposed to Rangeland Reform '94. Then, I assume under the Secretary's orders, there were 49 meetings all across the country, all on the same day, and that was the input that there was on Rangeland Reform '94. Ninety-nine percent of those folks who live on the land and who work the land, who graze on the land, testified in opposition to Rangeland Reform '94.

If it is true that this bill—and this is a quote from your testimony, Mr. Dombeck—if it is true that this bill would severely limit public involvement in the management of public lands, why do you think there are so many people out there that are opposed to this bill and that are opposed to Rangeland Reform '94?

Mr. DOMBECK. Let me respond first by saying the hearings that were conducted on the day that you mentioned—and in fact I attended the hearing in Casper that day—were only one of many forums to comment on the process. The process evolved over the two to two-and-a-half-year period in which, in total, we processed some 98,000 oral and written comments. In fact, in my 20 years in government service, I do not believe I have seen a more extensive outreach process in dealing with any issue as we have had with this issue.

I also might point out that many changes were made. For example, initially the resource advisory councils did not have a residency requirement. The people in the West told us that they didn't want somebody—

Mrs. CUBIN. But why are so many of the stewards of the land—why are they opposed? And I mean it is practically unanimous that the people who live on the land, who depend on the land to make their living—and your own testimony said 95 percent of them are good stewards—why are 95 percent good stewards opposed to Rangeland Reform '94 and in favor of our bill? How do you balance that out?

Mr. DOMBECK. Well, I think, first of all, we are all skeptical of change, and in fact I see change. The change in the West is part of the controversy that BLM is in the middle of. There are extremes on both sides, and I think there is a strong central faction that we have got to get people to work with people and educate people, because this issue is not going to go away with the passage of this bill.

Mrs. CUBIN. Do you think it will go away if Rangeland Reform '94 goes into effect when, you know, like I said, virtually everyone on the land is opposed to Rangeland Reform '94, and, even according to your testimony, 95 percent of them are good stewards?

Mr. DOMBECK. I think it will.

Mrs. CUBIN. Do you think it will go away under Rangeland Reform '94 and not under our bill when they favor this bill and not Rangeland Reform '94?

Mr. DOMBECK. Well, I think it will get better under our BLM proposal, because it is an open process, and I think any time we exclude people and move back to a process where only the lessee has a say, the other interests in the public lands, whether they are miners or oil and gas developers or hunters or anglers, they want to have a say, too.

Mrs. CUBIN. Well, I certainly am a proponent of multiple use. Rightly or wrongly, my concern is that it seems that grazing is being limited by the BLM and the allotment management plans and so on.

Well, my time is up. I need to respect the Chairman's request.

Mr. HANSEN. Go ahead. If you want to continue your train of thought, go ahead.

Mrs. CUBIN. No, that is fine. Thank you very much.

STATEMENT OF HON. BARBARA CUBIN, A U.S. REPRESENTATIVE FROM WYOMING

Mr. Chairman, I want to thank you for holding this hearing today on H.R. 1713, the Livestock Grazing Act of 1995. I appreciate the leadership that you and Congressman Cooley have shown on this issue which is so vitally important to the economy of every western State.

I will keep my comments short in order to hear from our impressive list of witnesses, including two from Wyoming. Truman Julian, president of the Public Lands Council, has been a voice of reason on this issue for years and has a particularly poignant story to tell about the stability of his own operation....A story that is too often heard across the West. Linda Taliaferro speaks on behalf of all Wyoming counties and I think sums up the situation very eloquently.

I fully support the Livestock Grazing Act because this bill will lend stability to an industry which for too long has been subject to political whims. Secretary Babbitt took office with an agenda that was contrary to the best interests of the western culture.

His efforts to force that agenda upon us has threatened the western way of life. The ramification of Babbitt's Rangeland Reform '94 extend far beyond simply forcing western livestock producers off the land. It would harm every bank, every feed and supply store, every farm implement dealer, grocer and store owner in our State. The impact would be devastating.

Ironically, I believe that Rangeland Reform '94 would even prove detrimental to the environment. A couple hundred cows would tread much more lightly on Wyoming's scenic lands than the hundreds of ranchettes that would spring up when certain ranchers are forced to subdivide.

One of the reasons I came to Washington was to help return stability so that the West can continue to be a productive part of this Nation. That is why I so strongly support H.R. 1713. It is fair. It addresses the issue of grazing fees in a reasonable manner and it protects the States' primacy over water rights. In addition, it addresses how the National Environmental Policy Act (NEPA) will operate with regards to Federal rangelands.

I thank the Chair for this opportunity to speak and I welcome all our witnesses. I look forward to hearing their testimony.

[The prepared statement of Hon. Bill Richardson follows:]

STATEMENT OF HON. BILL RICHARDSON, A U.S. REPRESENTATIVE FROM NEW MEXICO

Mr. Chairman, grazing has become a perennial issue in the Congress. The issue has engendered strong feelings by those involved or affected by it. Today we will hear testimony on a new comprehensive grazing proposal. Simplicity is not one of the bill's virtues. H.R. 1713 is a detailed 93-page rewrite of the laws dealing with the grazing of livestock on public lands. Whether H.R. 1713 will form the basis for settling this issue or whether it will only inflame the controversy, remains to be seen.

I do know that the grazing regulations that H.R. 1713 seeks to overturn were developed over a 2-year period and involved over 50 public hearings or meetings and thousands of comments. H.R. 1713, by contrast, was introduced less than 2 months ago and this is its first House hearing.

The House of Representatives has voted on a bipartisan basis several times in recent years to overhaul the grazing fee formula. In fact, less than 2 years ago, the House voted by a 314 to 106 margin to overhaul the entire public lands grazing program. It is obvious to me that H.R. 1713 goes in a different direction than the previous House actions, so I will want to look closely at the bill and its implications, not only for the livestock industry, but for the public lands as well.

I note that several of our witnesses today have testified at previous hearings on grazing. I appreciate all our witnesses who are here today to provide insight on this important issue.

Mr. HANSEN. The gentleman from Minnesota, Mr. Vento.  
Mr. VENTO. Thanks, Mr. Chairman.

STATEMENT OF HON. BRUCE F. VENTO, A U.S.  
REPRESENTATIVE FROM MINNESOTA

It is pretty surprising testimony, I think, from the chief and from the acting director of the BLM with regard to the impact of this legislation. I think that, you know, the issue of dollars raised obviously is one that is of less importance than what the impact is to the land.

We look at what the costs are and how the management takes place with regard to grazing policy. Obviously a lot of acrimony has

occurred. I think part of the problem, Mr. Chairman—and I regret I wasn't here for an opening statement; I was detained and could not be here—this is a very important hearing on this bill and, as we are learning more about it, obviously very surprising.

But I would say that the concerns that are raised go well beyond simply the dollar amounts that are put in. It is a question of vast stretches of these public lands and whether the permits and existing activities can work compatibly.

I think from the testimony I have received from the director, he has pointed out that this would severely limit public involvement in the management of public lands. He knows we must move beyond public land users sitting at opposite ends of the table. This limits the ability of anyone who does not raise livestock to have a say in public land management and planning. I mean I don't know that that fits in with some of the goals that members have espoused here.

This bill is a departure from the traditional multiple-use management in that it appears to help one use over other uses of public land. It changes standards that courts apply and creates the potential for disruptive litigation for years to come.

Now I think that our colleague from California, Mr. Radanovich, was concerned about the litigation or whether an environmental impact statement was going to occur. But this seems to be actually a detour on the way to where we want to go. I know that that probably isn't the goal of the sponsors of this, and of course the Senate measure that is being marked up, modeled after this particular measure, apparently tends to not solve those problems, effectively eliminating a meaningful opportunity for anyone who does not graze livestock on public land to participate in grazing, planning, and management.

It doesn't sound like multiple use to me, Mr. Dombeck. Am I reading this testimony right?

MR. DOMBECK. Yes, that is correct. You know, we talked about change, and we talked about some of the controversial things, and let me restate that I think it is very important that the vast majority of good operators need to bring people to the table and to demonstrate to people that we know how to do this right.

MR. HANSEN. Will the gentleman yield?

MR. VENTO. Yes, I would be happy to yield.

MR. HANSEN. In effect, I think that is a red herring. You look at the bill, when all else fails, you say read the bill: Page 80, representation of interests; the last one is public at large, and it goes on to say that they would not make a major decision without this.

So to me, the Clinton Administration is coming up with a red herring on this one. Come up with a better one than that one.

MR. VENTO. Well, I don't know. The Senate defines affected interests as being for anyone who does not graze livestock. It will effectively eliminate it. It says grazing is conducted on—

MR. VENTO. Mr. Dombeck, did you want to respond to that?

MR. DOMBECK. Well, let me point out, you mentioned the preliminary mark of the Senate bill, and we actually see that as moving further away from the mark than it already is by eliminating the definition of affected interests.



To disallow individuals a role until fairly well along the way in the appeals process, is moving away from the concept of open public participation in an open process. Allowing the rancher-dominated grazing advisory councils to set objectives is clearly a departure.

Mr. VENTO. How is that going to fit in with the overall resource management plans? I mean here it is on page 85: A grazing advisory council shall set range improvement objectives, advise on the expenditure of range improvement funds. Of course, that is the money the BLM is spending. Plus, of course, they get back the money, part of the money already, to help themselves, and they pass that money on sometimes to themselves. These are the very people that are holding the permits, aren't they? There is no objectivity here necessarily.

I mean normally we look for an arm's length, you know, relationship from people that are working here, but these are the same people that are actually grazing the cattle. They are permit holders, are they not?

Mr. DOMBECK. I believe so, and I think, again, we need an open, inclusive process to educate people and reduce the rhetoric and the controversy.

Mr. VENTO. However you want to argue this, you understand there is more use; you look at the forests in terms of numbers of recreational use, the hunting use, the number of species that occur here that are important. All of that obviously, in a bill like this, seems to be moving in the opposite direction.

I mean it isn't just a matter of trying to reconcile things. I think it really further polarized these types of activities, you know.

When you consider, Mr. Chairman and my colleagues, that 2 percent of the forage for cattle comes from Federal lands, that is to say almost the 300 acres that are under grazing permit, if they are all being used, and all the problems that have ensued, you can't discount that the drought and the other factors that have occurred in the last decade especially have been severe, and then to take a bill and try to move in this direction seems to me to be wholly inconsistent with what is going on.

I mean this seems like a war on the environment, to me, and a war on these public lands, and the condition of them, especially these hot desert areas, from all the studies we have seen, is not that good, it is in tough condition, and obviously I lament the fact that that causes some distress.

But this legislation I can't believe is being portrayed in terms of prying, it is more top-down management from Washington, as is being stated in the testimony by the director and the chief.

Mr. HANSEN. Thank you. We are going to go another round with this group.

Let me ask you, do you feel that the BLM and the Forest Service should have a right, everyone should have a right, on who cuts timber on a public land? Is a housewife in Washington, DC, to have an input on that?

Mr. THOMAS. I didn't track the question.

Mr. HANSEN. Do you say everyone in America, the 250 million, should have an equal right on everyone who cuts timber on land?

Mr. THOMAS. I think that everybody in the country has a right to talk about how their public lands are managed. Very obviously the question is, in actuality, they don't have equal rights because they are not there and participating on a daily basis.

Certainly in theory, I believe that every citizen of the United States has a right to make input into how their public lands are managed.

Mr. HANSEN. That is true. On the other hand, they also have a right to tell us how to run the military, but we leave it up to Shalikashvili in that area, and we support him, just like we support you, Chief, in running the Forest Service, just like I don't think everyone has a right to tell my wife how to clean the house. I am not saying that if they wanted to establish some standards they could, but I am just kind of concerned that we are carrying this thing on to an extreme application.

I think you folks ought to get off this particular issue of having rights—the bill does give people the right to do these things—and get down to some of these other issues that probably have some.

The vote is on the previous question on the foreign ops rule, and apparently we are going to have three or four votes on this. I don't know how we can avoid it. Probably a previous question, probably the rule; there may be a reconsideration in there. So I just ask your patience and appreciate you being here.

Could we ask you if you could stay with us a while? I think we want to get another opportunity to talk to you folks again, if we could. I have a number of questions I would like to ask.

Mr. VENTO. Will the gentleman yield?

Mr. HANSEN. We may be a little while before we get back, so we will stand in recess for a while.

Mr. VENTO. If the gentleman will just yield on his land point, if he will yield to me.

Mr. HANSEN. I would be happy to.

Mr. VENTO. I think the issue is obviously, whether it is a little old lady in tennis shoes in Minneapolis or wherever they are in terms of what the impact is, I think the question is, as we begin to focus on this, you want to be very careful so you don't shut out people who do have a legitimate role and voice, to add that to the public process in terms of what is going on.

I think the tendency of this bill is to do that. If that isn't the intention, I think it can be corrected. But obviously that is the reading of the director. I think he is a professional and that is their intent. I think that if that is not the intent, then that could be corrected.

Obviously, the point is, where there are legitimate concerns, I think we failed with regards to the BLM multiple-use groups in any case, the advisory groups that we were supposed to establish in terms of the grazing advisory. I think the characteristic had been that they would be only made up of people that had an economic interest in what goes on. I think that has to be broadened. That shouldn't be the case today. That is a major issue with regards to some of this matter.

Mr. HANSEN. Thank you.

Reclaiming my time, let me say I think the BLM does do that. I think the public at large—I don't know how much broader you

could make it in this particular instance—the public at large would have input on this, just like I think the public at large should have input on backpackers and bird watchers and hunters and fishermen and all those things, and, to a certain extent, you folks made a big deal out of those who cut timber, put cattle on the range, and mine, and completely ignored these other folks. I don't think this Congress is going to do that. Everyone is going to be treated more equally, and I think that is what we all agree that we want to get to.

Thank you. We are in recess.

[Recess.]

Mr. COOLEY [presiding]. Can I have this meeting come to order, please? I want to apologize for the last hour it took us to get over, but these are things that are a necessity. So we will get back under way. I am next up on the list.

Mr. Dombeck, earlier in your testimony you said that the industry was a fairly good steward of the land and that maybe we should educate the public on the benefit aspects of grazing. We are trying to do that with a great lot of expense and personal time and loss, and I appreciate your comments in that area, and I hope that you will also reflect this in comments and concern when you talk to the Administration about this. I think we are good stewards of the land. I think grazing has been beneficial, and I would like to see it continue.

Mr. Thomas, in your earlier testimony you talked about the fee system and how you didn't think it was adequate, or you actually—my interpretation—did not appreciate the fee system that you find in H.R. 1713. If you don't like this system in the fees, do you like the one we presently have?

Mr. THOMAS. No, sir, the point of it is, I didn't say I didn't like it, I merely said I have absolutely no understanding of it, and I have not been able to find anyone who can explain it to me.

Ordinarily, when we go through a fee-setting operation like this, there is a very careful assessment of how this works, where you get the information, how it would relate, a sensitivity analysis of how it would adjust over time. I simply don't have that information at my disposal, so I don't know whether it is good or bad.

Mr. COOLEY. OK. Have you had a chance to look at the fee system that is in the bill? Have you had a chance to review that?

Mr. THOMAS. Yes, sir.

Mr. COOLEY. OK. Well, Mr. DuBois, from the Association of State Departments of Agriculture, in his testimony said he supports the grazing fee formula, and he raises no concerns about this. In fact, he has no difficulty with it. He thought it was a good system. I think it is fairly simple. It is not as complex as the one we presently have, and I think it puts a fair and equitable value on the use of Federal lands, and I don't understand why it is so complicated.

Mr. THOMAS. It is not complicated, Congressman, it is very, very simple. It is just that I don't understand it. I have not seen a sensitivity assessment.

Ordinarily when we would go through a formula that sets grazing fees, it would be peer reviewed, it would have a full cost/benefit assessment, where the information comes from, what the sensitiv-

ity to the market would be, and how it would be applied. I simply have not seen that analysis. It may be wonderful, but I just haven't seen that.

Mr. COOLEY. Well, the market sensitivity is what drives the formula. It is a market-driven formulation.

Mr. THOMAS. I understand that is what is supposed to happen. I am merely saying, as a technical expert and the chief of an agency, I do not understand the formula, nor have I seen the information that led up to it. It may be fine. I just don't know.

Mr. COOLEY. OK. Mr. Bay, I will ask you the same question as I asked Mr. Thomas, the chief of the Forest Service. Are you aware of Mr. Frank DuBois' comments concerning the fee schedule as found in H.R. 1713?

Mr. BAY. No, sir. No, sir, I was not.

Mr. COOLEY. OK. You have never had an opportunity to look at that fee schedule?

Mr. BAY. No. We really feel that, as a statistical organization, we collect data that we are asked to collect to try to measure the economics and so forth. But we don't have a position on the fees.

Mr. COOLEY. Well, in your statement you said that the bill could have a "pay as you go" implication. If you made that statement in your written statement, "pay as you go" implication, how can you make that statement and not be aware of the formula?

Mr. THOMAS. He didn't make—did you make that?

Mr. COOLEY. In his written statement.

Mr. THOMAS. No. I think that was mine, Congressman.

Mr. COOLEY. Mr. Bay's statement—OK, you both have it, yes. I am sorry, I didn't hear you, sir.

Mr. BAY. No, I don't have any more to say on that.

Mr. COOLEY. OK. I was just concerned because of your written statement; you made that statement.

Mr. THOMAS. Congressman, I will respond to it. It may have paygo implications. That should be very clearly spelled out if that exists or does not, and I don't want you to misinterpret my testimony. My testimony is that we simply do not understand the origin of the formula. We have not seen the sensitivity analysis, nor do we have any idea of what the paygo implications would be. We think, before you pass such a bill, that you would want answers to those questions.

Mr. COOLEY. Well, I imagine we will find answers to that question. We went through a long, grueling process here. We have been at this now for about eight to ten weeks. It has been no surprise or been a secret to anybody on this Hill, both on the Senate side nor on the House side, nor your department, BLM, nor the U.S. Forest Service, of what the formula has been. The formula has been set in place, been very well-known by everybody. In the next six to eight weeks, anybody who wanted to analyze this formula could have done so.

Mr. THOMAS. Congressman, I would love to have somebody analyze it, and we have not been requested to do that. If we were, I suppose we would do that.

Mr. COOLEY. My time is up.

Mrs. Chenoweth.

Mrs. CHENOWETH. Yes, I have a couple of questions, one for Mr. Thomas.

Following up on what Mr. Radanovich was talking about, in Idaho we are having a lot of trouble with our grazing allotments, and I very quickly mention that as I go out into the forest and I see areas that are not being grazed, it appears to me—and I am not a professional forester at all—but it appears to me that the undergrowth which is no longer grazed is taking over to the point that it creates a greater fire danger.

Another problem that we are having, Mr. Thomas, is that every rancher that wants to take advantage of his allotment that he has been grazing on, that his cows have been grazing on for years, has to go through a full EIS process and at great expense.

You know, the United States Supreme Court has numerous times said that the expense and the responsibility of going through the NEPA process is that of the Agency's, it is not the responsibility of the individual.

Now, I don't know what, you know, administratively you may come up with, but I know the Supreme Court has said it is a responsibility of the Agency's, and it is breaking the back of our ranchers in Idaho, who graze on forestlands, to have to go through the full court process of not only putting the EIS together, but then proving that it is sufficient.

We have an agency that is operating out there that seems to be in direct contradiction with what the Supreme Court has interpreted NEPA to be. It is your responsibility, not the Agency's, and the reason the Supreme Court said that was that because it is your decisions, it is the Federal decisions that need to be analyzed.

I hope, Mr. Thomas, that we can see some relaxation of that, because I know in the original creative act and everything that Teddy Roosevelt wrote about, and subsequent presidents, that it was their dream that the Forest Service would be there as local communities developed, and they specifically many times mention not just logging and not just recreation, but grazing, too.

So for the health of the forest—and I have learned that you are a pretty wise man—but I hope that we will see a change out in Idaho and better cooperation, because it really is breaking the backs of those who really are good stewards of the land and really are working, and, honest to goodness, the results are good fire suppression techniques.

Mr. THOMAS. Congresswoman, I sort of lost the rabbit there, but we are in violent agreement that I am a nice man.

Mrs. CHENOWETH. That is the rabbit you found?

Mr. THOMAS. The point being, I certainly agree that any environmental assessments are our responsibility.

Now, I think there is just some confusion here. Nearly all of our grazing permits will probably be renewed based on environmental assessments, which means that is a very much lesser degree of assessment, which says, OK, there is no need to proceed to the full EIS. In some cases, particularly when we are dealing with a threatened species, we would probably move to that degree. But we are moving full bore ahead on that.

Each one of the individual permits is not being assessed. Sometimes they are batched, to the extent that we can do that, and the

last I heard—the day before yesterday—we were making good progress at meeting our time schedules.

It is certainly our responsibility, but the reason that we take it on is not because we don't have other things to do, but, because of the circumstances, we think that that is the best thing to do to assure that our grazing permittees are in place with their permits intact, as time goes on. That is exactly why we are undertaking it.

One other comment about the response about grazing and fire is, there is some truth to that, but I think in some of these discussions we simplify things too much. In the end we are interested in two things. One is caring for the land appropriately, under the law given to us by Congress, and second is serving people, and the care and feeding of our permittees is part of caring for people in the communities in which they live. I don't think you would find any disagreement between the U.S. Forest Service and you on those points.

Mrs. CHENOWETH. Well, Mr. Chairman and Mr. Thomas, to bring the rabbit out and show you real clearly, I believe and am convinced the shoe is on the wrong foot with regards to who has the responsibility for carrying out and performing the environment assessment or the EIS, and I think that the Supreme Court has dealt with the fact that it is the responsibility of the Agency to perform the environmental assessments, not our ranchers.

Mr. THOMAS. Absolutely. We are in absolute, total agreement. They have no responsibility to do an EA or an EIS. We do that. We need help from them sometimes in terms of information. But that is absolutely our responsibility, not theirs.

Mrs. CHENOWETH. OK. I am glad that is on the record.

Mr. THOMAS. And I will be in Boise this afternoon.

Mrs. CHENOWETH. Good. I hope we can help clear that up. Thank you very much.

Mr. THOMAS. I am sorry, the reason I lost the rabbit, I misunderstood the question. So you are very clear: Environmental assessment is absolutely the responsibility of the land management agency.

Mrs. CHENOWETH. But the permit is an ongoing equity right, and so—

Mr. THOMAS. The Supreme Court thinks not, but I will leave it at this. We have interest in the renewal of those permits under the law and in a very effective and efficient process. Equity rights, the Supreme Court has some different ideas about that.

Mrs. CHENOWETH. Do you believe, Mr. Thomas, that the water rights have an equity value?

Mr. THOMAS. I believe that we follow the State law on water rights—I am not sure I am a lawyer enough to understand the equity question about water. But the grazing permits have been ruled by the Supreme Court to be a privilege and not a right. However, we do deal with renewal, and that is what we are dealing with.

Mrs. CHENOWETH. And have you looked at the IRS cases in that case?

Mr. THOMAS. No, ma'am. If we want to talk about the law, I'll have to talk to my lawyers.

Mrs. CHENOWETH. Of course. I look forward to continuing this discussion. Thank you.

Mr. COOLEY. Mr. Ensign, you have no questions?

Mrs. Cubin, you are next on the list.

Mrs. CUBIN. Thank you, Mr. Chairman.

Mr. Dombeck, would you agree with me if I made the statement that the rangeland is in better shape than it has been in this century?

Mr. DOMBECK. In fact, in my testimony I indicated that. The low point in the health of the land was hit in the late 1800's and early 1900's, and the fact is, the Taylor Grazing Act was passed and things have been on the up trend since then. Many areas are far from their full capability in what they can produce.

I might cite the example of the riparian areas which, again, are small in acreage but very important, because these are the areas that recharge water tables, these are the areas that provide a wide variety of opportunities for anglers, for wildlife viewing, for supplying water, recharging streams, and increasing the length of flow in intermittent streams.

In fact, the data that I have indicates that 21 percent are in nonfunctioning condition and 48 percent are functioning at risk, and it is in everybody's benefit to have the whole system function to its full capability. The rancher benefits, you have got an increased weight gain in livestock, better fishing, better hunting, increased water availability, and that basic premise I am glad we are in full agreement.

Mrs. CUBIN. What specific provisions of the LGA do you feel will cause grazing to be the predominant use or the single use on the land? What specific part of the bill causes you to think that?

Mr. DOMBECK. Number one, I think if you look at the whole thing cumulatively, the trend seems to be toward considering grazing to be the dominant use. We have been making progress fairly dealing with the variety of public land users over time, and I hope we can continue to make progress to improve the health of the land.

Mrs. CUBIN. So you can't point to a specific area of the bill, it is just your general overall impression?

Mr. DOMBECK. I don't have the bill in front of me at this time, but I would be happy to provide you with a written response, detailing our interpretations.

Mrs. CUBIN. OK. I would appreciate that. That would be good. [The analysis for the Livestock Grazing Act supplied by Mr. Dombeck can be found at the end of the hearing.]

Mrs. CUBIN. I wanted to address a question to Chief Thomas, and then I will be through.

On page 7 of your testimony it says that title II would complicate compliance with statutes such as NEPA, the Endangered Species Act, Clean Water, and others. Now, when I read the bill, I can't find a single provision that would, you know, amend or repeal any part of that. Can you tell us how the legislation complicates compliance with these other laws?

Mr. THOMAS. Not in five minutes. We have the prepared written response that we would be glad to provide you with. But basically it provides a different mechanism of making decisions outside of the NFMA process. It turns and says the overrider in this particular bill has to do with who gives advice, and the grazing board is

different than what we do now, and I suspect—correct me if I am wrong, but I suspect very strongly that we are going to also deal with title I as far as the Forest Service is concerned, are already dealing with that in the Senate mark. So I suspect we had better talk about it that way.

It also says that NFMA's purpose suddenly becomes carrying out planning, county planning. That is not what it is now. That is very, very different.

Those are two examples. There are a number of others. I will be happy to provide them in writing.

Mrs. CUBIN. OK. That would be good. And also, I would like a little bit more explanation, if you would, please, on the rationale, because I don't exactly follow your rationale because there is a different board making some decisions, but that is all I have.

Mr. THOMAS. Well, all right. I did have the answer. We take away the national grasslands from the National Forest System. Title II requires that they be managed under separate direction from other lands of the National Forest System, totally different. They are a management entity. And in administering those national grasslands, the Secretary would still have to comply with other laws like NEPA, ESA, Clean Water Act, and about half a dozen others.

And compliance becomes fragmented. It is no longer part of the National Forest System; it is totally different and under separate rules. For example, if a project took place on lands that had both grasslands and other National Forest System lands and ESA was needed, under the current authority, that would be one consultation. If they are managed separately, they would be separate projects with separate consultations. That is just an example and I can go on at quite some length.

I would like to make a point here. This bill is similar to a lot of others. We do have problems with the management of our Federal lands and it has to do with overlapping laws, one on top of another, with the differing regulations and with the court cases that come down to us that force us into an adjustment in how we do things. Fixing these things one at a time is very apt to cause considerably more problems than it is apt to cure.

I would suggest that everybody just calm down and think their way through these things entirely. For example, we have got grazing advisory boards. Do we need hunting advisory boards, fishing advisory boards, timber advisory boards? These things do not add up to make real good sense, in my personal opinion, and I think in dealing with whatever the problems are perceived to be in such a way is apt to cause considerably more problems in the end than they solve.

Mrs. CUBIN. But doesn't Rangeland Reform '94 also have an advisory board?

Mr. THOMAS. [Presiding] There is a big difference between the Forest Service and the Bureau of Land Management. Ours do not. Forest Service doesn't have grazing advisory boards.

Mrs. CUBIN. But the regulations overlap between BLM and the Forest Service.

Mr. THOMAS. Some do, some do not. There are some separate mechanisms. Part of your bill is theoretically to bring those things



under the same regulation. Since we start from two different places, deal with a lot of different laws that apply to the Forest Service independently of BLM, I would be very careful with an analysis of what we are apt to produce in terms of conflict because the two agencies come from two very different evolutionary backgrounds in terms of law.

Mrs. CUBIN. Thank you, Mr. Chairman.

Mr. COOLEY. Thank you, Mr. Vento.

Mr. VENTO. Thanks, Mr. Chairman.

I would request that the Forest Service and BLM provide to the record an analysis of the grade fee formula contained in this measure, H.R. 1713. I noticed staff had indicated that they thought that was appropriate. Also any estimates that they would have on the cost of implementing H.R. 1713 because these grazing advisory boards and the new role they are going to play, I don't know with or without professional staff.

[The information from the Forest Service and BLM requested by Mr. Vento can be found at the end of the hearing.]

I assume if they are into land use planning, that entails a certain amount of—how do you integrate that? How do you do an EIS or an EA in the absence when they are doing the planning? To me, it sounds like a lot of duplication at the very least. We need to have any cost estimates of this measure for the record. Obviously it is a large bill, a long bill. I understand that there has been some notice with regards to it. It is an important bill, obviously an important initiative on the part of our colleagues from Oregon and others. And I had a lot of questions about this. For instance, I notice we have Don Bay here from the Economic Research Service. Is that your role, Mr. Bay?

Mr. BAY. I am actually from the National Ag Statistics Service.

Mr. VENTO. But the point is, there are terms in this bill and conditions that are not defined that are, it seems to me, imprecise and confusing. I would be happy to yield to the sponsor if he could tell me what the total gross value of the production of livestock means, total gross value and production of livestock.

Based on information produced on the bill, in other words, the example of how the fee would be calculated, it appears that Congress intends that the gross value in this measure be based on the Economic Research Service indicators of farm sectors cost of production. Major field crops and livestock—the data is collected by the National Agricultural Statistical Service but they don't have that particular information, do they, right now?

Mr. BAY. You are correct.

Mr. VENTO. They don't have the information. How can you calculate what the effect is on the bill? Another example is that they have a fee calculation but nobody seems to be able to determine what the basis is for the \$1,420 that is in the bill.

I would be happy to yield to anybody here that is a sponsor that can tell me why that is in the bill and what it means. I would be happy to yield to my colleague.

Mr. COOLEY. Thank you, Mr. Vento. It reflects the three-year average of the carcass weight determined by the USDA.

Mr. VENTO. I appreciate that they have not published any figures since 1992 documents three years ago. The Economic Research

Service can come close but it cannot duplicate the value by using the 1992 national gross value production estimates for beef-cow-calf enterprises. This includes all beef cattle all across the United States, incidentally. That includes in the Midwest, in the East, all over where they raise a lot more beef than you do.

However, it is doubtful that Congress intends to use all beef cattle in the United States. That is what that particular formula does. I think that that is what it does. Furthermore, the term livestock is much too general to be useful. It could include sheep, dairy cattle, beef cattle, hogs, and so forth; is that correct, Mr. Bay?

Mr. BAY. That is correct.

Mr. VENTO. What I am trying to point out, I think whatever your feelings are about how you want to proceed with policy, what you don't need to do is write into law to codify something and have this go into a lot of litigation and a lot more uncertainty. I think the real fear here, and I think they testified to it, Mr. Chairman, is this could end up in endless studies that, obviously, would just bring to a grinding halt the implementation of what is intended, obviously, as a new policy path.

I would yield briefly to the Chairman.

Mr. COOLEY. Just to clarify what you are saying, Mr. Vento. Those figures from 1992, they have published the figures since 1992. When we tried to look at the formula and tried to make a determination of what would be applicable for use of public lands, we use the entire country as an equitable base. There is no other way to really do it if you want to do it across the board. You take out a certain sector and the rate goes up or down.

So we said to have the least amount of conflict, least amount of discussion, let's take the overall average of the entire United States would be fair for everyone and use that as a baseline. And that is what we did.

Mr. VENTO. I think you are only dealing with 2 percent. You are dealing with much, much different circumstances than you have in Iowa and Minnesota and other parts where we raise, obviously, a lot of beef, so, I mean, I understand but I don't think there are current numbers for it and I understand that.

Mr. COOLEY. Just remember, they don't have any public lands up there, either.

Mr. VENTO. We do have public land, Mr. Chairman.

Mr. HANSEN. Very little.

Mr. VENTO. We have quite a bit in Minnesota, actually.

Mr. COOLEY. Used for grazing?

Mr. VENTO. Not extensively used for grazing, but we do have a lot of public land in Minnesota. The other question I wanted to get to is the fire issue, Chief, and I think obviously the suggestion by one of my colleagues that grazing has an impact in terms of suppression of fire, it has also an impact in terms of actually preparing the land for being more susceptible to fire, isn't it in terms of selective species of vegetation? We send up with sheep grass, tumble weed, mugo pine, other types of problems that are really damaging in terms of once fire does take place in these areas; isn't that correct?

Mr. THOMAS. Congressman, you are saying this is a lot more complex than it seems superficially. Obviously, the best way to pre-

vent fire is to put sheep on it and overgraze it so extensively we wouldn't have anything that would carry fire. Nobody is going to suggest that. So the point being range ecology, and why we manage range, and how we deal with plant succession, and what stage the vegetation is in is all part of that complex. A fire is only part of it.

Yes, too much grazing can produce a vegetative complex that is even more susceptible to hot fire than bunch grasses that might be knocked out in the process, but that drives you into the specifics of different ecosystems, but the point being is that this is a lot more complex than grazing as a fire prevention mechanism. In fact, that would probably be one of the more minor aspects.

Mr. VENTO. I know, but I just wanted to raise that particular point. One of the issues, Mr. Chairman, I know my time is expired, but I would ask the indulgence of my colleagues only for an instant. We talk about on page 37 of the bill, it says, private and State land.

Private and State land shall be included in the allotment management plan with the consent or at the request of the person that owns or controls the land, so that is a basic extension of planning process that you would have to go through, in other words, how much land would there involve that you would now have to start providing integration of plans for that you do not do today? How many hundreds of millions of acres of private land?

I mean, it obviously adjoins. You would have to cut it off someplace. This is a question but this would be an extensive expansion of the responsibility for BLM and the Forest Service, would it not, Mr. Dombeck?

Mr. DOMBECK. Well, I certainly wouldn't want to guess at the estimate right here, but it would certainly be very, very large.

Mr. VENTO. I think the intent of this, frankly, is they want to see cooperation in terms of working with adjacent and contiguous lands. I don't have any problem with that. In fact, I think it is a good idea. I suspect that you try to do that today where you have in-holdings within the national forest or the BLM lands or lands sensitive adjacent to it; do you not?

Mr. DOMBECK. In fact the collaborative process that has evolved, based upon all the input we have had, our proposed rules indicate the more we get people together, the more we can integrate how land is managed results in the best product, but we are certainly not seeking the authority to dictate to people what they can do on private land. That is their business.

Mr. VENTO. Mr. Chairman, on the definitions of allotment management plan, section 121, are these a codification of existing policies—do you know this? For instance, it says, as specified, the limits of flexibility within which the permittee or leasee may adjust operations without prior approval of the authorized officer and provide for monitoring to evaluate the effectiveness of management actions in achieving the specific multiple use management objectives of the plan.

It seems to me they want benchmarks set up that you can actually hold this up against to see whether you are doing it—probably in theory a good idea but, in practice, I think it would be very dif-

ficult to extrapolate and be that anticipatory in terms of what would be within the context of a permit.

Doesn't this necessarily complicate the permit and permitting process? And then they are, of course, asking these permits to be extended to 15 years which seems to me if you are asking for this type of data, first of all, it is a tremendous amount of data. I think you have got to rethink how you are going about doing this.

I appreciate the uncertainty and the concerns that folks have, but I don't apologize for the expansion of knowledge and information that we have. That is just the reality of where we are at today and we have to figure out a way of doing that. But this is, I think, putting a tremendous responsibility onto agencies beyond anyone's capability to do, and I think you are just setting yourself up for and setting the agencies up worse yet for problems in all candor.

Mr. Dombeck.

Mr. DOMBECK. Well, first of all, let me mention that the monitoring, a couple of things that are troublesome to us and one of those right now is, for the most part, our range conservationists working with the permittees, but for something like a trespass situation, to have to phone the permittee in advance to tell them that we are going to do an inspection on a trespass seems like it ties our hands in being able to deal with a problematic situation and the point you made on permanent tenure, the best tenure the livestock industry can have is to be good stewards. That is by far the best tenure, and it is interesting to note that the existing permit holder does have a preference at this time and will continue to have.

Mr. VENTO. I understand the preferential right of renewal in terms of permits and, obviously, that is something in terms of way of life and culture and a variety of other things. Obviously, if you went to fair market value and you want to make this completely objective and so forth, you wouldn't do that, but nobody is suggesting we eliminate grazing from public lands. We, obviously, want it done in a way that is compatible and, obviously, this bill raises many questions, Mr. Chairman, which will need to be answered.

Mr. HANSEN. Thank you, Mr. Vento. We will get those answers.

I want to thank the panel. I appreciate your participation in this process.

Mr. HANSEN. We would like to call up panel number two: Mr. DuBois, Tim Lowry, Linda Taliaferro, Gerald Hillier, and Harvey Barnes, increasing the panel by ones. I understand Mr. Barnes has to go someplace.

You are first, Mr. DuBois.

#### **STATEMENT OF FRANK A. DuBOIS, NEW MEXICO SECRETARY OF AGRICULTURE**

Mr. DuBOIS. Thank you, Mr. Chairman, members of the committee. I am Frank DuBois, Secretary of Agriculture for the State of New Mexico. I am on the board of directors of the National Association of State Departments of Agriculture and I am President of the Western Association.

I appear before you today on behalf of the NASDA, which is the nonprofit association of public officials representing the commissioners, secretaries, and directors of agriculture in the 50 States.

I might add that our national president this year is Bruce Andrews from Oregon.

NASDA supports establishing the State or regional standards and guidelines as found in section 105 in conjunction with the State Departments of Agriculture and the land grant universities. We also support the development of the allotment management plans as outlined in section 121, following the three Cs, consultation, cooperation, and coordination. We support that because it closely mirrors the same language that is in FRIA.

Additionally, NASDA supports paragraph (e) of this section which is the section that exempts the issuing of grazing permits from NEPA. We support section 122 of the bill which outlines the process of determining ownership of structural range improvements. Section 123 of the bill which addresses water rights on Federal lands is supported in its entirety by NASDA.

Section 131, paragraph (c)(2) concerning the authorization of grazing use provides that an authorized BLM officer, when considering more than one application for the grazing use, shall not take into consideration the past practice or the present willingness of an applicant to allow public access to Federal land over private land.

The association supports this paragraph but would suggest applying the language in the section to section 132 as addressing grazing permits or grazing leases. This would ensure that the BLM could not make the issuance, reissuance, or transfer of a term grazing permit or lease contingent upon public access across private land.

NASDA also supports the issuance of term grazing permits or leases for the 15 years as specified in section 132. NASDA supports the grazing fee formula established by the bill. NASDA supports section 164 concerning the ability of permittee or leasee to appeal a final decision. As we read it, this section in effect would overturn Secretary Babbitt's full force and effect proposal.

Section 176 concerning resource advisory councils is supported in concept by NASDA.

Mr. Chairman, I do have three suggested changes to the bill that I would like to present to you today on behalf of NASDA. One, I would suggest that House bill H.R. 1713 in its entirety be applied as it is now written to the U.S. Forest Service.

In the written testimony that I supplied to you, I provided quotes from the **Federal Register** where both the Forest Service and BLM were quoted as saying one of the premises of Rangeland Reform '94 was to bring their two agencies management of grazing to make them similar. I would suggest that you grant that wish and include the Forest Service in this bill.

Second, I would request on behalf of NASDA that any and all inclusions of the term "affected interest" in relation to allotment management planning be removed from this bill. All interested parties should be and are allowed to participate in comment on and have standing to appeal resource management plans for the BLM and forest plans for the Forest Service with respect to livestock grazing and any other issues addressed in these plans.

Site-specific planning such as AMPs, must be consistent with the existing land use plan of either the BLM or the Forest Service. As such, the development and subsequent adoption of AMPs is a final

document that is signed by the permittee or lessee and the land management agency. These two entities are exclusively bound by signature to any and all other requirements of the AMP as well as the consequence of the success or failure of implementing the very same AMP.

Last, concerning grazing advisory councils as found in section 171 of the bill, we would request on behalf of the NASDA that the membership of these councils be elected by the local permittees and lessees in an attempt to bring national politics out of the selection of these important entities.

I would also like to speak to section 181 about reports. In there you have a report required by the agency that would address efficiencies in the administration of grazing. I would suggest that you either may want to add language or at least report language to ask the agencies to be very innovative when they provide this report because, under the current system where you have government employees following the dictates of Federal statute, Federal regulations and the Federal Courts writing government plans for government land you have a system, a model set up there that is fraught with inefficiencies, and I think it is time that we look at possibly some different models or other ways.

Finally, I understand my time is up. Could I have 30 seconds to address one additional issue, sir?

Mr. COOLEY. Yes.

Mr. DUBOIS. There has been testimony today that this bill would create a dominant use on the public lands. And I just want to assert that that is certainly not our reading of this bill. I mean, after all, the sustained yield and multiple use act would still apply. FLPMA, PRIA, and the Wilderness Act would still apply, itself.

In our opinion, all this bill does is give management direction for a fair management agency on how they should manage one of the multiple uses on these public lands and we would not define that as creating a dominant use.

Thank you for the opportunity to testify.

Mr. HANSEN. [Presiding] Thank you, Mr. DuBois.

[The prepared statement of Mr. DuBois can be found at the end of the hearing.]

Mr. HANSEN. Mr. Lowry.

#### **STATEMENT OF TIM LOWRY, OWHYEE CATTLEMEN'S ASSOCIATION AND OWHYEE COUNTY LAND USE PLANNING COMMITTEE**

Mr. LOWRY. Mr. Chairman, representatives of the committee, my name is Tim Lowry. I am Chairman of the Owhyee County Land Use Planning Committee, a committee appointed by the county commissioners, and past president of the Owhyee County Cattlemen's Association. The comments that I am making today represent the views and the policy of the Owhyee Cattlemen's Association and the Owhyee County Land Use Planning Committee.

I want to begin by expressing our deepest appreciation to Congressman Chenoweth for her very steadfast support in protecting her constituents' rights and the stability of the western livestock industry. And we know that there are others on this committee

who are committed to the same goals and we commend and thank them also.

Last Sunday night, on July 9th, the subcommittees from the Cattlemen's Association and the County Planning Committee met. We reviewed revisions from the Senate bill and I would like to tell you that we were very pleased with the changes that have come out.

The position of Owhyee County, that property rights and interest, due process rights and the stability of the western livestock industry must be protected has remained constant from the beginning of this process. This process with us began with a meeting with Representative Chenoweth the evening that we received a copy of the original bill.

The next morning, Dr. Gibson, from the county, and myself flew to Albuquerque. We met with people from the New Mexico Public Lands Council. And from that meeting, an extensive list of suggested recommendations to the original bill was sent to our respective congressional delegations and some of those recommendations were incorporated into the bill that was introduced.

After the bill was introduced, we met in Boise, Idaho with leadership from the Idaho, the Oregon, and the Nevada Cattlemen's Associations to review that bill, see what recommendations and changes additionally needed to be made. And those recommendations were presented to the Senate Subcommittee on Forests and Public Lands Management.

As I said before, we were very pleased. It appears that around 80 percent of our original recommendations have been accepted and most of the more important issues we feel have been resolved. I would like to bring to your attention for your consideration three sections that we think could still use a little bit of work.

The first would be section 137(c)(3), and it is our feeling that to assess a surcharge for authorized pasturing of livestock owned by a person other than the permittee or lessee is discriminatory and punitive, that it will penalize those who could least afford it. And if the rationale for the surcharge is revenue enhancement, then the possibility I think is likely that it will probably have a negative effect; in other words, if a person is in a position for whatever reason that he can't afford to own his own livestock to fulfill the permit and has to run leased cattle and it is prohibitive, costwise, to do that, the allotment will be vacant and no revenue will be realized.

If we are looking at vacant allotment as a result of the surcharge, we believe that will also run contrary to sound range management principles. We had an ecosystem management seminar in Caldwell, Idaho where one of the speakers, Dr. Wayne Burkhardt who is a renowned range scientist, talked at some length about grazing being a natural and necessary component of healthy and sustainable range lands.

The second item I bring to your attention, Mr. Chairman, would be the establishment of standards and guidelines on a State or regional basis. And it would be our position that that is still too large of an area. And as pointed out in the hearings on range land reform by many range scientists, that standards and guidelines are detrimental when applied over a wide area, and I am sure it is this way everywhere, but in the State of Idaho on a statewide basis,

there is nearly as much difference statewide as there is between States throughout the West. And even when you get down to a county level, there is a lot of difference, so we think that standards and guidelines need to be applied at the largest level at the resource management area and preferably at the allotment management area.

And third, I would just mention briefly on the fee section that we would respectfully request that suggestions that Owhyee County has sent in on the fee issue, that you take a sincere look at them. We are not going to oppose the fee section that is in the bill, but we do believe that there are some problems with it. We don't think that it will be the final solution and we would offer our suggestions as a simple and equitable solution.

And I will conclude, Mr. Chairman, by again thanking Representative Helen Chenoweth, the rest of the committee, and thank you, Mr. Chairman, for this time.

Mr. COOLEY. [Presiding] Thank you, Mr. Lowry.

[The prepared statement of Mr. Lowry can be found at the end of the hearing.]

Mr. COOLEY. We have about 20-some-odd people to testify. If we could try to hold to the five minutes, we would appreciate it because, otherwise, we are going to be here until the evening and we would like to try to get everybody to have an opportunity to testify.

Mr. Hillier.

#### **STATEMENT OF GERALD HILLIER ON BEHALF OF MARSHA TUROCI, FIRST DISTRICT SUPERVISOR AND CHAIR OF SAN BERNARDINO COUNTY BOARD OF SUPERVISORS**

Mr. HILLIER. Thank you, Mr. Chairman. I am Gerry Hillier. I am speaking on behalf of Ms. Marsha Turoci who is the Chairman of the Board of Supervisors for San Bernardino County. Thank you very much for allowing me to participate on her behalf. She was unable to attend today because of some pressing county business.

I am joined here today by her field representative, Len Smith, who could also provide additional information on behalf of the county. Professionally, I have been involved in range management land management for a 38-year career, and currently serve as an advisor to San Bernardino County on public land issues.

Thank you for the opportunity to address the subcommittee considering the reform and stability of this industry throughout the West. We have for too long fought over grazing issues on public lands. It is time to recognize that range livestock grazing, like all agricultural pursuits, has a continuing place in the economic scheme and fabric of the West and the United States, that it can and is managed under professional principles, and that we cannot afford to see any aspect of our economy and heritage reformed out of business simply because the ranchers use public lands for all or part of their operations and certain elements of society feel this is somehow wrong. Public lands are important to all people and they must continue to provide their values to all the public including the livestock industry.

San Bernardino County is the largest county in the United States. It also has perhaps the largest area of public lands within any political subdivision, over 6 million acres under BLM adminis-



tration and significant other areas administered by the Forest Service, National Park Service and Department of Defense.

Public lands in the county are home to both cattle and sheep. Sheep utilize spring forage which is frequently abundant in our deserts as they have for over 100 years. Cattle are grazed from ranches in the county in surrounding mountains and foothills throughout the first district, which is the district Ms. Turoci represents. Again, this has been going on for over 100 years.

Much of the history of grazing in the West has been colored by an initial history of nonregulated use. That era has passed. Contrary to the belief of some, we have the ability, will, and science to properly manage our natural resources. The BLM has been doing this for years in the absence of range reform and with the desert plan in 1980 provided conservation thresholds for turnout and a variety of other provisions to stabilize livestock and renewable resources within the county and the desert regions.

Unfortunately, over the past 15 years, our ranchers have been bombarded with added problems associated with their use which should have been long ago resolved. Yet last year, our ranchers were faced again with range reform. We hope that this attempt by Congress will affirm that livestock do have a place in the public lands and that ranchers do have continuing recourse to appeal arbitrary and impractical decisions and have them stayed during the appeal and resolution process.

These actions have included restrictions on livestock by Federal agencies under the Endangered Species Act, as it is currently being implemented, and enactment of the California Desert Protection Act, which placed over half the county's public land cattle grazing under National Park Service administration.

I come before this subcommittee testifying in favor of the proposed legislation. It will bring renewed stability to public land grazing and send a message to administrators that the Congress has once again affirmed this historic and economically important use. It will eliminate or at least reduce the chances of management and administration of public land grazing being arbitrarily reformed under single use agendas. It appears to be a logical and natural evolutionary step in the progression of grazing regulation.

It is sad that Congress must continue to revisit this issue but perhaps each generation must reaffirm that which is important. And grazing use of public lands is still important to our ranch families and to our heritage. It establishes better balance on the resource advisory councils than those recently chartered by the Secretary.

It better assures that all parties with a stake in public land management issues can be at the table when decisions are made under basic range management and grazing allocations. It makes a clear statement regarding ownership of private investments and range improvements on public lands together with recognition of private holding of water rights under State law. This removes ambiguity regarding titles should public lands be transferred to another agency, and establishes a grazing fee formula which I hope will become the final word in this the matter.

Too long have ranchers faced uncertainty regarding their own expenses in a market over which they have no control. It is important

that fees serve as rent, but they must also reflect the cost of operation, the lack of full security of tenure, the public nature of the land which is livestock share with a variety of other users, and that a portion of the fees continue to be returned to the county.

We offer two proposals for inclusion within the act. One for the sake of consistency, we urge that the National Forest System be administered under this act. This will assure consistency between BLM and Forest Service on policies, administration, and fees.

And, two, for the sake of San Bernardino County, we propose an addition to section 124 which will redress an issue which was created by the last Congress. We suggest the addition of a paragraph (c) in the inclusion of wording to the following effect that: Areas of public lands which Congress has designated to be units of the National Park System since January 1, 1994, and in which grazing was specifically authorized in the enactment to continue, shall be administered under the provisions of this act, including licensing and permitting by the former agency, setting of and deposit of grazing fees, installation and maintenance of range improvements, and title thereto, and retention of appeal rights to the Interior Board of Land Appeals under the Administrative Procedures Act.

The above text is proposed for the purpose of amending section 510 of the California Desert Protection Act which placed many of our cattle ranchers under the National Park Service within the newly created Mojave National Preserve. Their rules and regulations eliminated their appeal rights except for the Park Service. Hierarchical structure created ambiguity regarding ownership of existing range improvements, and has created uncertainty regarding coordination with the Fish and Wildlife Service regarding range management and desert tortoise habitat.

Thank you for the opportunity to participate in this hearing. I would be happy to expand on any of the points in the testimony or provide any additional details which the subcommittee might find helpful.

Mr. HANSEN. [Presiding] Thank you, Mr. Hillier.

[The statement as prepared by Ms. Turoci can be found at the end of the hearing.]

Mr. HANSEN. Ms. Taliaferro.

#### STATEMENT OF LINDA TALIAFERRO, PRESIDENT, WYOMING ASSOCIATION OF COUNTIES

Ms. TALIAFERRO. Thank you, Mr. Chairman. My name is Linda Taliaferro. I am President of the Wyoming County Commissioners Association. I am a commissioner from Sweetwater County, Wyoming.

We have been involved with range land reform from the start. Many of my county commissions from around the western States and Wyoming have testified against it. The Wyoming County Commissioners Association as a body, all 23 counties, has taken a stand to oppose Rangeland Reform '94. Therefore, it is a great pleasure for me to be here today to visit with you about the Livestock Grazing Act, H.R. 1713.

I am going to speak to you about what we believe this act will do to help keep Wyoming and other western States that have public lands headed in the right direction. We feel that it is time to

put this issue to rest and are hopeful that this act will help do that.

As commissioners in Wyoming, we work, live, and socialize and are, in truth, the very people that this bill will effect. We believe it is time to let this industry have a stable environment to act within. Dealing with the market is bad enough, but to have to deal with the bureaucracy that you don't know from day to day or year to year what they are going to come up with next is asking too much. It is time to move this issue into the 20th century and, hopefully, be ready for the 21st century.

As a commission, our goals are not much different than yours to keep a stable tax base. To do that, we have to keep all industry strong. The agricultural community offers so much for everyone: food, open spaces, the use of a product, range grass, that only benefits everyone concerned when used properly, to save a life-style that is very important to America, not any more important than any other, but just as important.

The agricultural dollar that comes into a community 99 times out of 100 stays in that community. There are several counties in Wyoming and other western States that agriculture is the majority of their tax base. So when this issue is addressed and kicked around, you are talking about complete communities, not just about people that raise the sheep and the cattle. You are talking about schools, hospitals, car dealers, churches, grocery stores. Main Street Wyoming is being decided whenever this issue is discussed or written about.

To go over some of the fundamentals of the act itself that are very important and that we agree with, having the standards and guidelines established on a State, preferably the State or regional level, is extremely vital. Letting the people that have to live with the situation put together the plans under which to operate and, I mean, involve all groups, local control and input is essential. Water rights should be controlled, maintained, administered in accordance with the State law. The 25 percent subleasing charge on everyone, unless the sublessee is an immediate family member, we believe that we can live with.

We like the fact that the LGA accepts the proposal to establish resource advisory councils and that they be residents of the State and local community, requiring education, training, and experience in rangeland issues to be an excellent idea and extremely significant.

The grazing fee formula. This formula would increase the amount of the AUM. None of us like the increase of the cost, but, that is a given, but the increase will help some to offset operational costs and hopefully will not hurt too many. This formula is much better than the one that we feel we operate under now and more understandable.

One area of concern that we have is about the private property rights when lands are intermingled. As a commissioner, I deal with zoning issues on a regular basis. I have to be very careful when enacting new zoning regulations to consider all property that is adjacent and just what effect the new zoning will have on it. When regulations are written to govern a section of public land, that will have a direct effect on all the adjacent lands.

We in Wyoming are very proud of our public lands and we want to keep them as beautiful as possible and we do want to use them in the most proper way.

I agree with the statement on page 3, that the Federal rangelands are in the best condition since they have been during this century and that their condition continues to improve. We have had wonderful moisture in the West this spring and summer and the rangeland is abundant with plant life. Again, I cannot express how I feel about this bill and that the local control is essential.

We believe this act will move us all in the right direction. Thank you for your time and for your effort and all the work that you have put into this.

Mr. HANSEN. Thank you very much.

[The prepared statement of Ms. Taliaferro can be found at the end of the hearing.]

Mr. HANSEN. Mr. Barnes.

### **STATEMENT OF HARVEY BARNES, PRESIDENT-ELECT, NEVADA CATTLEMEN'S ASSOCIATION**

Mr. BARNES. My name is Harvey Barnes and I am from Jiggs, Nevada, and I am President-Elect of the Nevada Cattlemen's Association.

The Livestock Grazing Act offers the opportunity for livestock grazing to continue on public lands using wise and sound management practices for the stewardship of those rangelands. The rural West needs this type of security for stability and its future.

Cooperative public land management has caused vast improvements in range conditions over the past half century. The need exists for continued range improvement, solid resource management, and use of this resource to care for our ever-increasing population.

The Nevada range livestock industry supports the concept of this legislation. As this legislation has a direct effect on our industry, we have some points for your consideration.

The 15-year tenure proposed in the bill is the highlight of the bill because it assures some long-term stability to the industry. Lack of tenure has been the major problem encountered in public land grazing. In Nevada, where 87 percent of our land is Federal, dependency on the use of those lands to make economic use of private lands is high. Therefore, changes in the policies for use of the public lands has a direct, immediate effect on private lands used for livestock production and local economies.

Since the inception of public land grazing administration in 1934, we have not been able to obtain assurance of tenure, even through the permit system. We believe that with the improved condition of the ranges, the advancement of range sciences during the past two decades, and the necessity to stabilize the range livestock industry, reliable tenure must be provided. Such tenure will also allow financial institutions to provide adequate long-term loans for purchases and improvements on ranch and rangelands to enhance our rural economic stability and the environment.

We feel that the Grazing Advisory Board Council proposed in section 177 of Senate bill 852 and H.R. 1713 is essential to effective management at the local level. For many years, the livestock industry had an elected grazing advisory board with mandatory meet-

ings to consider all aspects of grazing management. People who participated in the process, both Federal employees and private individuals, felt that these boards provided a valuable service.

We believe that the proposal should include the opportunity to resolve differences which arise from decisions of the authorized officer prior to the final decision. This can be accomplished by a mechanism in which the authorized officer and affected user would appear before the council which would hear both sides of the issue and then make a recommendation to the agency. All actions of the Grazing Advisory Council in this proposal and the bill should be by a two-thirds vote instead of unanimous as set forth in the bill. We believe also that this same vote should apply to the resource advisory councils.

Standards and guidelines were first proposed by Secretary Babbitt in his rangeland reform. They appeared to remove any incentive for progressive range management and improvements. We support the establishment of regional and State standards and guidelines. However, we believe that standards and guidelines should be established with full consideration to forage production, soil betterment, watershed management, and coordination of the production capabilities of the private land dependent upon the public land grazing.

Standards and guidelines must recognize the need for consumption of the renewable resource consistent with the production capabilities of public and private lands within the region of consideration.

We wish to express our appreciation to this committee and the various representatives of the States who are making the tremendous effort to initiate legislation which will benefit not only the public lands but also the private sector which is directly affected by the decisions for public land administration.

We believe the passage of this bill will begin to provide some basis of stability in public land grazing and, therefore, we support this concept. We very much appreciate the opportunity to comment before you.

Thank you, Mr. Chairman.

Mr. COOLEY. [Presiding] Thank you very much, Mr. Barnes.

[The prepared statement of Mr. Barnes can be found at the end of the hearing.]

Mr. COOLEY. I want to remind my colleagues that we are trying to do a five-minute rule. Let's try to obey the lights if we can. I will start this off with Mr. DuBois.

You made the statement about amending or deleting the inclusions of the affected interests in this bill. By doing this, do you feel that the bill would limit public input, as some people have stressed such concerns about, not allowing the public to be involved in this process?

Mr. DUBOIS. No, sir, I do not. Because where the term affected interest is used is in conjunction with AMPs. The public is allowed all accounts of input either through the resource advisory councils or through general comments on these land use plans or resource management plans, and it is in those plans where the issues are discussed. Do we have grazing or do we not? Should there be limi-

tations put on grazing or not? To what extent does grazing impact wildlife recreation, coal leasing, et cetera?

All those issues are addressed in the resource management plan or the land use plan and everyone has input into that and everyone has the right to appeal those.

When you get down to the site-specific level, our argument is that there is a signed document between the Federal land management agency and the permittee. It puts obligations on the land management agency and the permittee and they are the ones that have to live under this document, and to include someone else at this point is unwarranted third-party inference.

Mr. HANSEN. Thank you.

Mr. Hillier, you have a lot of experience in public process and dealing with the public. Do you feel that the public participation under H.R. 1713 would be sufficiently apprehended or cut out of the process in such a way that you feel that the public would suffer under this particular bit of legislation with your vast experience in public policy?

Mr. HILLIER. I don't think so at all. I would certainly echo what Mr. DuBois just said, that the time for public participation and in fact, in practice, when most of the public dialog and participation comes about is during the land use planning process, either the forest plan or the resource management plan, depending on whether it is Forest Service or BLM.

And if the resource advisory councils are properly organized with the entire spectrum of interests and the meetings are open to the public which the bill provides for, that dialog and with all of the interests at the table takes place relative to the allocation, the levels, and the general tenor with which grazing management is going to take place on an area, you know, just as timber harvest and wildlife management activities and a whole array of multiple uses. And there is full public participation that takes place now and there is full public participation guaranteed under H.R. 1713.

Again, relative to the details of how that is going to be implemented would take place at the allotment management planning level and there it is basically a contract between the rancher and the agency who is doing it. And it is the intricacies of whether the cattle are going to be moved June 1st or June 15th, it is the intricacies of how pipelines are going to be laid.

And, frankly, to provide for reopening that public dialog and allowing basically those who may have argued against grazing allocations to reopen those debates simply prolongs and actually prevents and delays the implementation of modern and scientific range management. The public interest is certainly protected under the act and I have seen no diminution of that.

Mr. COOLEY. I have time for one more. We will get around to the next pass. We will get everybody at least two opportunities. Mr. Ensign, you are next.

Mr. ENSIGN. Thank you, Mr. Chairman.

First of all, I would like to welcome Mr. Barnes from my good State of Nevada to the panel.

Mr. BARNES. Thank you.

Mr. ENSIGN. Mr. Barnes, could you briefly explain the problems that the ranchers in Nevada are having with Federal agencies?

Mr. BARNES. Not briefly, no. But it seems to me as far as resource management, you know, we have gotten to the point where there isn't any. It seems like you are either in an office or shuffling papers or something. We are not getting it done where it should be and it seems like every obstacle is thrown in our faces to prevent any type of range improvements, AMPs, and so forth. And of course with our forestlands, I feel we have been good stewards.

I don't know if you are familiar with the lawsuit that we have raised with the NEPA process with the Forest Service filed by the National Wildlife Federation, but it lists certain allotments. Our allotment is not in the suit. However, we are thrown in the same basket as the bad stewards which it was alluded to this morning that 95 percent of us are pretty good and the other five are not.

Well, in this lawsuit we are thrown in the same basket with everybody else because, if we don't have our NEPA analysis done, we don't get a permit. And so there is some real justified apprehension out there.

Mr. ENSIGN. So what people said this morning, you would disagree with their assessment that 95 percent are protected now? Will it be easier under Secretary Babbitt's new regulations coming out?

Mr. BARNES. You are right, Congressman. I would strongly disagree with that remark because it is not in the reality. We are a family operation. We run on both BLM and Forest Service lands and—

Mr. ENSIGN. Could you also comment, earlier there seemed to be a little laughter in the background when I had asked them about the ease of getting permits for additional cattle in years such as this when there is a lot more and maybe of the other panelists would like to comment on that as well.

There seems to be some disagreement from what I heard when I was in Elko last week from what I was hearing from this morning's panel. Would you like to comment on that?

Mr. BARNES. Well, sir, the first thing, if you put an application in for temporary and nonrenewable, someone has to come out and look and they are always very busy, and sometimes it is physically impossible to get someone out there to look. And if they don't look, well, they will not grant the permit, so it isn't a slam-dunk by any means.

Mr. ENSIGN. I would just suggest that anybody who is applying this year would take the testimony from this morning and put that back on their desks and say this thing is supposed to be an easy thing to do, especially in years like this, to maybe get through some of the bureaucracies.

Maybe some of the rest of panel would also comment on some of what was talked about this morning. There seemed to be a pretty strong feeling from the panel this morning that they were afraid of taking the Federal Government oversight out of the management of the rangelands or at least limiting their control would be a bad thing.

Would anybody else like to take a shot at that and how you feel about it?

Mr. DUBOIS. I think this bill that we are discussing today brings back a pretty good balance between the authorities and duties of

a Federal land management agency and recognizing the expertise and the economic needs and so on of the permittees out there on the ground, and it also gives an opportunity for the local county, State government, these rural communities that are so dependent upon these Federal lands to have more of an input into the planning process, so I think it brings a good balance—it brings a balance back from where Secretary Babbitt was going to take it.

Mr. ENSIGN. Thank you.

Thank you, Mr. Chairman.

Mr. HANSEN. Mrs. Chenoweth.

Mrs. CHENOWETH. Thank you, Mr. Chairman.

I want to welcome Tim Lowry to the panel. You know, I just want to thank all of you for being here because I know the great sacrifice that it has taken for you to come and spend five lousy minutes to give your testimony and try to convince us not to destroy your life-style. We had the government in front of us for two hours and we limit you to five lousy minutes.

I want to ask Mr. Lowry, how much did your plane ticket cost you?

Mr. LOWRY. Congressman, it was 1,350 some-odd-dollars.

Mrs. CHENOWETH. And you are missing three days of work?

Mr. LOWRY. Yes, ma'am.

Mrs. CHENOWETH. When were you notified and asked to come to testify?

Mr. LOWRY. It would have been Friday, I believe. Friday was the 7th.

Mrs. CHENOWETH. So it was last Friday.

Mr. LOWRY. Correct.

Mrs. CHENOWETH. Well, I just, again, want to thank all of you for making the sacrifice to be part of the citizen government. Not only the sacrifice of being here to testify, but the sacrifice of the work that you have put in with Congressman Cooley in putting together this bill.

Mr. Lowry, this question goes to the attitude of the Agency, not just with regard to the ranchers, but the community. The community's stability and protection of the community was something that our founding fathers and, of course, the western pioneers and those who formulated western law really saw a need for.

Can you tell me about the incident that happened in your county with regards to the fire and the choice that BLM made?

Mr. LOWRY. Yes, Congressman, I would be very happy to, because I was able to see that question answered in practice and not in theory.

Last summer, one of our neighbors—and, understand, in Owhyee County a neighbor can be upwards of 50 miles away—but this particular neighbor, probably four or five miles from his closest neighbor, but it was during the middle of the summer, we were haying, we noticed the smoke up the country. And as we always do when we notice something wrong like that, neighbors all quit what they were doing and headed in that direction.

And when we got there, a little fire was burning, and it was just getting started. It had got up to his house. It is an old two-story house in excess of a hundred years old, and he was fighting it with a garden hose.



By this time, it had burned the tool shed and lost the electricity, so we lost the water. So we were fighting it with shovels and dirt and running across the road and over into the barn lot where a spring fed a water trough and packing buckets of water back.

The fire was getting away from us on the house. It was spreading out through the meadows toward his haystacks. It was being blown across the road on to the hillsides.

We had people scattered out running pretty fast trying to keep things under control when we noticed coming up the road three BLM fire pumper trucks. We thought that that was their destination. They slowed down a little bit when they went past, because, as I said, we had people running across the road packing buckets of water. They drove on past because they had a report of a lightning strike up on Juniper Mountain and a tree was on fire. The result was that Con lost his house completely, lost everything that was in the house. And so that was the way we saw that question answered in practice.

Mrs. CHENOWETH. So, Mr. Lowry, I think this incident points up the fact that we truly desire to have the BLM be a better neighbor.

Mr. LOWRY. Congressman, if I could talk about that for just a second—

Mrs. CHENOWETH. Mr. Chairman, I would like to ask unanimous consent that his—

Mr. COOLEY. You may have the time.

Mrs. CHENOWETH. Thank you.

Mr. LOWRY. Now, understand, I am not trying to make my remarks cover the entire bureaucracy, because in particular where we operate we do have some permits in Oregon under the Vale district, and we have a pretty good working relationship.

In Owhyee County, we are working under people who are intent on imposing their personal agenda, which does not include us. And you said, you would like to be better neighbors. We do not consider them neighbors. Because neighbors are people that work with you, that you try to get along, you try to help each other. And our relationship with the Federal agencies is not one of neighborliness. It is, unfortunately, a pretty adversarial one. We feel that—as if we are—and I hate to use this word under the political climate these days, but, essentially, we feel that we are under attack, that our rights and our existence are literally under attack.

Mrs. CHENOWETH. Mr. Lowry, you as well as the other gentlemen and lady at this table have all worked very hard with Congressman Cooley, Senator Craig, various other people, in bringing this bill about. And it is a bill of great compromise and consensus. But if, by chance, this bill does not pass and it is vetoed by the White House, what is your alternative to Rangeland Reform '94? Are there any plans legally to make sure that Rangeland Reform '94 is not implemented? Are you prepared to file for injunctive relief?

Mr. LOWRY. Congressman, in Owhyee County, as you know, we were working with a legal consultant when Rangeland Reform '94 was initially released. We set the framework in the testimony for the legal arguments that will be made. Owhyee County is committed. If it is implemented, Owhyee County is committed to go to court in order to protect the rights of the citizens of Owhyee County.

Mrs. CHENOWETH. You are a member of the Executive Board of the Idaho Cattle Association?

Mr. LOWRY. Correct.

Mrs. CHENOWETH. And you do support this bill 100 percent? Or 90 percent, with the exceptions that you mentioned?

Mr. LOWRY. Congressman, as mentioned, the subcommittees from the County met Sunday. We went over this thing, and the recommendation of the subcommittees will be to support this bill.

There are a few things we would like to see worked on, but if that doesn't happen our position is now that the thing has been corrected to the point to where we can make it work. And from the County's standpoint we will go back home, and we are going to do some things to strengthen the County land use plan to cover any weaknesses that still exist.

Mrs. CHENOWETH. Thank you, Mr. Lowry.

Thank you, Mr. Chairman.

Mr. COOLEY. Thank you, Mrs. Chenoweth.

Mrs. Cubin.

Mrs. CUBIN. Thank you, Mr. Chairman.

First of all, I would like to thank Mrs. Taliaferro for coming from Wyoming, and, like Representative Chenoweth, thank all of you for all of the work that you have done.

I want to make an observation. I made it after a hearing, I think it was last week or two weeks ago, that, you know, to me it is too bad that the first panel didn't stay to listen to what you have to say. I realize they leave staff to take notes and go over it with them, but I think it is so much more impressive when they can actually hear the witnesses themselves. So I will be requesting that from now on we have the administrators testify last so that they can hear the compelling testimony from the people that these laws actually affect.

I do have a question for Mrs. Taliaferro. As a county commissioner and president of the County Commission Association, what in your view would be the consequences of not passing some version of H.R. 1713 but instead allowing Rangeland Reform '94 to go into effect?

Ms. TALIAFERRO. I think the biggest impact that you will see on the counties is the farmers and ranchers will start selling off portions of their land to subdivisions, which causes a nightmare for any county, especially the—well, any county. When you deal with a subdivision, costs increase, you have roads, sheriffs, jails. Everything goes up. And you lose your open spaces.

But I think that the biggest thing that you will see is—in fact, I have heard it all over Wyoming from different ranchers and different commissioners that have said I am tired of fighting. With Rangeland Reform '94 you will be removing everyone at the local level another step. We will never get heard. It does not bring anything closer. It is further away. Decisions will be made, and we will do it or not like it. And we are tired. We are just tired of having to continually fight.

You will see more and more subdivisions and your loss of your open spaces; therefore, you lose wildlife and everything that goes with it.

Mrs. CUBIN. Thank you.

This is also for you, Mrs. Taliaferro. According to BLM's testimony, H.R. 1713 would—and this is a quote—severely limit public involvement in the management of public lands.

I would, first of all, point out that the public in my opinion has been involved because, well, for one thing they elected all of us congressmen that are working on this. But I am amazed to see their sudden interest in public involvement.

I know that you attended some of the public hearings last year that took place all across the West, and you gave Secretary Babbitt some very valuable input on behalf of Wyoming counties. Your testimony coincided with the vast majority of the testimony that was presented to the Secretary. What, in your view, was the result of all of the testimony and public involvement that Secretary Babbitt heard?

Ms. TALIAFERRO. Nothing. I don't know how better to say it. We testified at each meeting. He would open the meeting by saying we are here to listen, we want your input, we want your valuable information, we know that you deal with it on a daily basis. And at the next meeting it was the same. And at the end result, it was like we never said a word.

And when they stated this morning that 95 percent of the stewards of the land are good users, and they take care of it, and that the rangeland is in better shape than it has ever been, and then they turn right around and do not listen to us when we say rangeland reform will not benefit that and this act will, it will move this forward, and we will end up with something that is productive—and so I feel that after all these hearings that we never got off square one. We are still there. And, hopefully, this will do something.

Mrs. CUBIN. I agree with you. I found the same phenomenon whenever I discussed the matter with the Secretary.

Just a little comment. Last week, one of the members of the first panel was in front of us on a different issue. And we asked just directly, well, do you think that the States can't do this, that they have to have—it was on a different issue—that they have to have Federal oversight, you don't think the States can do it? And, yes, that is what he thought. And, you know, I just think it is too bad that some of our bureaucrats have that attitude.

Thank you very much.

Mr. COOLEY. Thank you, Mrs. Cubin.

Mr. Vento.

Mr. VENTO. Mr. Lowry, are you aware there is a joint agreement—obviously, there are interagency fire agreements between all the agencies, the Federal agencies. Is there an agreement in Owhyee County as to what the Federal Government will do in terms of extinguishing fires on private property?

Mr. LOWRY. Not that I am aware of, Congressman.

Mr. VENTO. Well, what is the normal process for extinguishing fires? Don't you have an agreement with the Federal Government of some sort? Are you part of the interagency? Is your volunteer group part of that? You are not putting out any fires on public lands?

Mr. LOWRY. No, Congressman.

Mr. VENTO. So it is your testimony, you just think they ought to—in other words, the Federal Government—there are jurisdiction lines in terms of fire and police. There are all sorts—whether you have got joint, sole jurisdiction between law enforcement, you can carry this to a lot of different conclusions depending upon whose responsibility it is.

I agree with you that it would seem to me a house is more important than a field someplace, but it is one of the problems that we have with a lot of inholdings in terms of what our fire policies are with BLM. They have certainly tried to work with the State and everyone else. I don't know where we begin to draw the lines and how we can work out something like that. It certainly isn't a policy we have written.

You know, here, the Director testified that if you had a trespass situation, before he could investigate it, he would have to get permission, I suppose, to do so, based on the bill that we have here. You know, this bill has been—the testimony before this committee this morning, that this actually complicates—

Mrs. CHENOWETH. Would the gentleman yield?

Mr. VENTO. No, not at this time. I won't yield right now.

This actually complicates the issue. Did you hear that testimony from the Director?

Mr. LOWRY. Yes, sir.

Mr. VENTO. I yield, yes.

Mrs. CHENOWETH. Mr. Chairman, Mr. Vento, Mr. Dombeck testified to the fact that it was their policy that human safety came first. That was part of the record that was established this morning.

Mr. VENTO. Well, was someone's life at risk in terms of this house?

Mrs. CHENOWETH. The house burned down.

Mr. VENTO. I know. Was someone's life at risk? That is property. That is different than a life, isn't it?

Mrs. CHENOWETH. I think the situation speaks for itself.

Thank you, Mr. Chairman.

Mr. VENTO. Well, I appreciate your insights, but I think the issue of course is, you know, do you have an agreement or don't you have an agreement with the Federal Government and where their responsibility lies. And I agree that it would seem to be that that type of flexibility would be desirable. But, in any case, is there anyone at the table that does not hold permits? You all hold permits?

Mr. HILLIER. I don't.

Mr. VENTO. Who does not? Do you hold a permit, Mr. DuBois?

Mr. DUBOIS. No, sir, I do not, but my family does.

Mr. VENTO. Your family does?

Mr. DUBOIS. Yes, sir.

Mr. VENTO. You testified that the National Association of State Directors here support the fee formula contained in H.R. 1713.

Mr. DUBOIS. That is correct.

Mr. VENTO. Does any State currently use this formula?

Mr. DUBOIS. Not to my knowledge.

Mr. VENTO. Did you hear my questions about the nature of this formula and the undefined terms?

Mr. DuBOIS. Yes, sir, I did. I can tell you, conceptually, we, as an association—and I personally find this grazing fee formula to be attractive.

Mr. VENTO. I appreciate your insights into how attractive you find it. I just was wondering, what do you charge right now per AUM in New Mexico State's lands?

Mr. DuBOIS. \$3.40 an AUM.

Mr. VENTO. \$3.40 an AUM, compared to something like \$1.80 for us nationally—\$1.60, OK.

Mr. DuBOIS. That, however, is for a lease, not a permit.

Mr. VENTO. OK, for a lease or a permit. Can you describe the difference between those?

Mr. DuBOIS. Yes, sir. When you have a lease under the State land office, you actually lease the land from the government. You are not just getting the forage.

Mr. VENTO. So you control the entire land? Nobody else can enter the land?

Mr. DuBOIS. Yes. They since changed policy, but for many years that was not the case. Plus they use the permittee to help police the area and other things. So it is quite a different situation.

Mr. VENTO. What is the length of those leases?

Mr. DuBOIS. Those leases are five years.

Mr. VENTO. Five years, yes.

One of the provisions here in this bill is, on page 56, is a payment prior to use and billing after the grazing season. If an allotment management plan provides for billing after the grazing season, a grazing fee shall be based on the actual grazing use and shall be due upon issuance. How would that be enforceable? Who would monitor that during the time, during the course of the issue? Could any of you explain that to me? I mean, this is—

Mr. DuBOIS. Does one of the permittees want to respond?

Mr. VENTO. You bill after the fact, isn't it logical if you have so many AUMs and they need to be used, obviously, you would charge on that particular basis as opposed to what is actually used. This seems to me that it would be impossible to administer. You would have to make a judgment, how many cows are on there, other factors that went into it. How would you possibly monitor it?

Mr. DuBOIS. Well, you know, the permittees have to respond to economic and natural forces as they manage these allotments.

Mr. VENTO. Well, I will tell you, if the permittees like this bill, they must love paperwork. Because you ought to take a look at page 53 through 54 in terms of the amount of paperwork that has to be completed in terms of this. I mean, I just think that some of this is wholly unworkable.

You know, Mr. Chairman, I just want to point out that here I assume that three out of four indicated that you have permits right now for leasing Federal lands. And most of the leases—actually, 10 or 15 percent of the leases hold 57 percent of the acreage. Fifty-seven percent of the AUMs are held by 10 to 15 percent.

These are not necessarily small companies. They are oil companies. They are boring companies. They are life insurance companies. They are breweries.

I think that my colleagues ought to recognize—you think of the small operator and a way of life and so forth, but the fact of the

matter is that 50 to 60 percent of these permits are being held by those that have over 500 AUMs. I don't know. That is not my definition of what is large, but that is the definition that is being used here for the purposes of this.

So, Mr. Barnes, how many AUMs do you lease or are you a permittee on?

Mr. BARNES. We have 2,132 AUM's BLM and 1,475 AUM's of Forest Service.

Mr. VENTO. I see.

Mr. BARNES. And that system that you referred to has been in effect in our district for a number of years, that if you have an allotment management plan you are allowed to wait and pay your fees at the end of the term. And I will assure you that not only the permittee turns in a form, but we are monitored by the Bureau.

Mr. VENTO. Ms. Taliaferro?

Ms. TALIAFERRO. I have no idea how many we hold, and I am going to tell you why. We have a family operation. I have brothers-in-law and sisters-in-law. I am a county commissioner. I don't ask them where their AUMs—I know where they are, but I don't know how many we have, to be honest with you.

Mr. VENTO. Mr. Lowry, do you know how many AUMs you permit?

Mr. LOWRY. Yes, sir. Approximately 1,800. And could I point out one thing?

Mr. VENTO. How many head of cattle is that?

Mr. LOWRY. Four hundred cows. There are two families of us. So, essentially, what you have is about 200 cows to support a family. And, out of that, I draw \$8,000 a year out of the operation to live on. My wife has to work out because there is no way in the world of making it on it. So I don't consider myself a large operator, sir.

Mr. VENTO. No, I wouldn't consider you a large operator, either. But I think that the issue is, of course, that many others, as I have indicated, are in a different situation, and 400 or more—

Mr. DuBois, my time has run out, so my colleagues—

Mr. DUBOIS. I just want to say that my family has a 96-head permit with the U.S. Forest Service. It is so small and so uneconomical that, much to my family's consternation, I have to go be a bureaucrat to make a living.

Mr. VENTO. Well, listen, a lot of us have had to leave the farm environment to do other things. So it is happening all over the inland area of the country. So it is not an unusual phenomenon.

Again, I say we have no objection to—I think, obviously, we are looking at a much more complicated policy than it was in the 1940's. I don't apologize for that. That is just the nature of the science that we are dealing with.

Ms. TALIAFERRO. Mr. Vento, I have been thinking here, and I am going to wager a guess. There are five families that are on these AUMs that derive a living from this, and I think that we have between 14,000 and 15,000 AUMs.

Mr. VENTO. Fourteen and fifteen thousand?

Ms. TALIAFERRO. Yes.

Mr. VENTO. Thanks, Mr. Chairman.

Mr. COOLEY. I want to tell this side, the right side here, that I am allowing Mr. Vento some extra time since he is an individual on his own over here trying to carry on his part of the bargain.

I want to make a statement to the panel. I want to tell you that it isn't the fact that you are here for five minutes. Your full testimony will be put into the record and be evaluated every bit of the time. Because of the way the system is set up, I know it is very hard on you to come here and spend a great deal of time and money and to be here, but I want to tell you that your participation is vitally needed in order for us to go forward with this legislation or any amendments to this legislation, and I do appreciate you coming here and spending your time.

I might say just for the record that Mr. Lowry made a statement, I think it should be put to people who do not understand the cattle business. For 400 head of cattle, he needs 1,800 AUMs. For 400 head he needs 1,800 AUMs. And the reason for that is, is that he can't graze on his land all the time and he has to keep moving them around in different allotments, which is also costly.

Another thing for the record is that the reason we are down now to a very small percentage of the total amount held by a very small percentage of individuals, be it either individuals or corporations or families, is that because of the past policies of the Bureau of Land Management, U.S. Forest Service, as it relates to grazing permits, many of the small permittees found it just absolutely intolerable to continue on. They have gotten out of the business and/or they have just merely let their leases go back. And we are finding this all over the West.

I just want everybody to be aware of what is happening. As the bureaus become more restrictive, more punitive in their action, the smaller individuals have seen fit to get out of the business. And so, therefore, larger companies have come in, hopefully, that can carry the burden for this cost.

So I want to make sure that that was in the record and not the idea that the big companies are gobbling up the little fellow. The little fellow is getting out because the bureaucracy is forcing the little fellow out of it.

Can you imagine having 400 head of cattle and needing 1,800 AUMs in order to run the 400 head? He pays not for 400 head, he pays for 1,800 head on the AUM basis. So I wanted to make that clear for the record.

I want to thank this panel.

Mr. Hillier, I see you would like to make a statement. We would like to get moving, but I will make it, if you please make it short. Because we have another 15 people wanting to testify, and it is almost 2 p.m., and we have another vote coming up, and that will be another 30 minutes. So could you make it brief, please?

Mr. HILLIER. One minute.

I just wanted to augment, people were saying there, you know, what the effect of this range reform was in the way the BLM was currently operating. Currently, even without range reform, BLM is implementing many of its decisions under full force and effect. And on June 12th, 1995, relative to a case that I have been involved in, in Nevada, we got the following letter that was signed by Assistant Director Tipton.

It says, "At the hearing you referenced, the Interior Department presented information based on available science supporting affirmative grazing during the crucial spring growing season. This was a decision to eliminate spring grazing. The BLM did not hear any other data of substance to cause a reconsideration of our decisions."

And then it goes on to say, "Basically, we will not rethink it." Unfortunately, they had heard two weeks of testimony that the ranchers had offered. Dr. Burkhardt was one of the witnesses, one of the expert witnesses, and they simply are implementing these things even in the absence of range reform. And that is why H.R. 1713 is very, very much needed to correct and provide the ranchers an appeal where their professional testimony can be heard and listened to.

Mr. COOLEY. Thank you very much.

Thank you very much, panel, for coming. We really truly appreciate it.

We will have the third panel come up now: Messrs. Breese, Skinner, Winter, Julian, Smith.

Gentlemen, there is a vote on. I think it would be better if we break right now. So we will be in recess for about 15 minutes. Thank you very much.

[Recess.]

Mr. COOLEY. Thank you very much for waiting. We just voted on a foreign appropriations bill, and I wouldn't even want to tell you the numbers. It will scare you to death. We appreciate your time in waiting for us.

Mr. COOLEY. We will start out with the first witness, Mr. Doug Breese. Glad to see you here, Doug. We appreciate you coming out.

#### **STATEMENT OF DOUG BREESE, AMERICAN FARM BUREAU FEDERATION, OREGON FARM BUREAU FEDERATION**

Mr. BREESE. Thank you, Mr. Chairman. It is nice to be here and I appreciate being able to have the opportunity to speak to this committee.

My name is Doug Breese. I am a fourth generation cattle rancher from Prineville, Oregon. I am President of the Oregon Farm Bureau Federation, and I am testifying today on behalf of both the American Farm Bureau Federation and the Oregon Farm Bureau Federation.

Our ranch is a 400-head cow-calf operation that I run with my wife and children, who are the fifth generation on the land. I served 10 years on the Prineville BLM District's Multiple Use Advisory Council and two years on the National Public Lands Advisory Council until it was disbanded by the present Administration.

Livestock from our operation use Federal lands managed by the Bureau of Land Management and the Forest Service at various times of the year. These lands, in some cases, are intermingled with our private lands, and we must be able to use them to properly manage the land's resources and economically manage our ranching business. The use of Federal lands is an important and integral part of our ranching operation.

Congress and the Federal agencies have been debating Western ranching livelihoods for decades and have been making piecemeal changes to policy over several years. Rangeland reform is the latest



and the most sweeping of these changes. The Farm Bureau believes the passage of H.R. 1713, the Livestock Grazing Act, will provide me and fellow ranchers across the West the certainty and stability that we need to continue operating in an economically viable manner.

The bill is in no way intended to challenge or change the multiple use policies of the agencies managing Federal lands or weaken the ability of these agencies to manage the natural resources on those lands. The bill addresses the livestock grazing management processes and/or policies for these lands. Rangeland Reform '94 also addresses many of the same policy issues as the bill but does so in a way that makes it virtually impossible to manage and sustain productive rangelands and watersheds.

As Federal land users, we recognize that we have a responsibility to take care of these lands and keep them productive for livestock, wildlife and other uses. Our livelihoods depend on the condition of those lands. Studies have shown that the Federal lands are in better condition now than at any time during the 20th century.

Such improvement is particularly obvious where I live. Permittees, with the encouragement and support from some of the more creative agency land managers, have been able to overcome many of the policy and paperwork roadblocks to good management. These permittees have spent a great deal of time and money in successful efforts to improve their allotments, making changes that benefit livestock, wildlife, watersheds and the overall condition of the rangelands.

Livestock permittees understand that the continued improvement of rangeland conditions depend on a partnership with the Federal agencies. The Livestock Grazing Act will foster and promote that partnership in a manner that is fair to both the permittee and the public.

The Livestock Grazing Act addresses the problem of maintaining the integrity of NEPA while removing duplicative and burdensome paperwork requirements. It provides for the issuance of grazing permits or leases that are consistent with resource plans, therefore eliminating the need to implement a second round of NEPA review, therefore getting agency personnel into the field where they can perform good ranchland management.

Rangeland reform attempts to develop standards and guidelines for rangeland management nationwide. It does not take into consideration the diversity of geography, geology, climate and plant communities found in different rangelands. Standards and guidelines are not the same thing, nor are they goals and objectives. Guidelines provide general policy that provides flexible directions to achieve general land use or management goals. Standards are more specific and are used to accomplish site-specific objectives in line with the goals.

Rangeland Reform's use of standards and guidelines will in the end continue a process where specific land management decisions are made in Washington, DC, instead of on the ground by competent agency staff with input from the local land user. Rangeland reform will stifle adaptive management by creative people and instead lead to a form of cookbook management that will doom our range resources.

The Livestock Grazing Act seeks to limit the use of one-size-fits-all standards and guidelines. It also directs their development to the State and regional level in conjunction with the State department of agriculture and other appropriate agencies or institutions. Amendments may be offered to more clearly define the standards and guidelines and how they relate to goals and objectives.

These are only a few of the problems created by Rangeland Reform '94 that will be solved by the Livestock Grazing Act. The bill seeks to accommodate the concerns and the needs of both the livestock permittee and the general public that has entrusted us with stewardship over their lands. While there may be parts of the bill we might not totally agree with, the bill is fair. More important, the bill puts an end to the piecemeal and sometimes conflicting additions to grazing policy by comprehensively updating Federal lands grazing policy in a unified manner.

But the ultimate yardstick for measuring the merits of the bill is whether it will continue to result in improvement of our Federal rangelands. It is clear from the few examples that I have cited that Rangeland Reform '94 will not work on the ground. In contrast to that, the Livestock Grazing Act will continue to forge the partnership between agency and permittee by providing the framework necessary for permittees to continue operating in a viable manner. At the same time, the Livestock Grazing Act will foster the continuing improvement of range conditions for the benefit of all.

We wish to thank the chairman of this subcommittee for holding hearings on the bill, and we also wish to thank the sponsor and cosponsors of the bill for the time and energy spent in drafting the bill that provides a common sense grazing policy that benefits everybody. Thank you.

Mr. COOLEY. Thank you, Mr. Breese.

[The prepared statement of Mr. Breese can be found at the end of the hearing.]

Mr. COOLEY. Mr. Skinner.

#### **STATEMENT OF ROBERT M. SKINNER, CHAIRMAN, PUBLIC LANDS COMMITTEE, OREGON CATTLEMEN'S ASSOCIATION**

Mr. SKINNER. Mr. Chairman and members of the subcommittee, thank you for this opportunity to talk to you today. It is very hard for a rancher such as myself who lives over 3,000 miles from here to grasp the fact that our destiny is determined here in Washington, DC.

I am a rancher from southeastern Oregon, and our ranch currently leases about 6,500 AUMs from the Bureau of Land Management, primarily from April through mid-September. I am Chairman of the Public Lands Committee for the Oregon Cattlemen's Association. I also serve as a Public Lands Council delegate from the State of Oregon.

The comments I am making today on H.R. 1713 are consistent with the views of the Oregon Cattlemen's Association members and the Public Lands Council leadership in the State of Oregon. Also, I feel it is important to remind you the livestock industry as a whole did sound a strong voice of support with the presidents of all Western States Cattlemen's Associations voting to support H.R. 1713.

It is with a very strong commitment to the well-being of the lands, both public and private, that I talk to you today. My children are the sixth generation of Skinners to live and work on our ranch in Jordan Valley; and, needless to say, the well-being of the land is absolutely essential for us to survive over the long haul.

We strongly support H.R. 1713 because in Oregon we land-owners, especially those of us who hold Federal grazing permits, are literally under siege from special interest organizations that simply want all economic use of the land stopped at any cost and with little or no consideration for the people who are affected.

I would also like to point out that in many cases scientific data is overlooked and disregarded. Many times rules, legal interpretations or just interpretations of the statute such as the Endangered Species Act, the Clean Water Act, the Wild and Scenic Rivers, Wilderness, National Environmental Policy Act, are used to keep our industry in a constant state of turmoil, uncertainty and stress.

With increasing frequency, ranchers, farmers and other property owners such as myself are forced into the stressful, expensive and uncomfortable position of defending our livelihoods in the courts of law, debates with the press and the legislative process such as this process today.

Our people are fighting for their livelihoods, and I have seen families give until they simply have no more. People are having a hard time making ends meet financially. And when there is no more to give they are perceived by others as quitters and in retreat. And thus not only is a financial hardship expressed but, equally bad, a social hardship comes into play. Simply put, we need to legislate stability back into the rural West. Our lending institutions would also welcome a more stable atmosphere.

We believe H.R. 1713 is the most significant piece of legislation to be introduced since the Taylor Grazing Act of 1934 and will provide a much-needed stability for our people and industry.

It is very ironic that I am speaking to you today about a bill that we hope will put stability into public lands grazing. Because just over 70 years ago, my grandfather and great grandfather were fighting the same battle. They were very active in trying to pass a form of legislation to provide stability as well as protection from the abuse of the public lands we were then and are today so dependent on.

I have listened to my dad tell stories of the pre-Taylor Grazing Act days when his job as a youngster was to spend all day, day after day, keeping the bands of sheep out of our private ground. The only distance between these bands was what was necessary to keep them from mixing. The owners of these livestock in most cases owned no property. Therefore, they were motivated to get all they could while they could and move on. And due to the good management practices by grazers, the range has done a remarkable job of recovering from the abuse it endured around the turn of the century, and it continues that process now.

Stability is essential. The land can't endure short-term gain. It is imperative that this Nation strive to provide as much tenure as is possible. Thus people will be motivated to improve the land and thus improve themselves.

And we fully realize the countless hours many congressmen and staff people have put into the LGA, and we would like to take this opportunity to thank all of you. The LGA is not all that the livestock industry wants, but we do trust you, our congressmen, to act in our best interests, which we sincerely believe is in the best interest of the land and of this Nation as a whole.

Thank you.

Mr. COOLEY. Thank you, Mr. Skinner.

[The prepared statement of Mr. Skinner can be found at the end of the hearing.]

Mr. COOLEY. Mr. Winter.

## STATEMENT OF KEITH WINTER, PRESIDENT, ASSOCIATION OF NATIONAL GRASSLANDS

Mr. WINTER. Thank you, Mr. Chairman.

I am Keith Winter, President of the Association of National Grasslands, a family rancher from Cartwright, North Dakota. I am honored to be here today and want to express as an individual and as a representative of the Association of National Grasslands my great appreciation for the efforts you and our own Representative Pomeroy and Senators Dorgan and Conrad have made to successfully resolve the western range problem.

The Association of National Grasslands supports the legislative process designed to send, as quickly as possible, the Livestock Grazing Act to President Clinton for his approval. Today, I will limit my comments to Title II of that act and will summarize the submitted testimony.

Title II, Grassland, as currently formulated, would remove the National Grasslands from the National Forest System and thereby from National Forest regulations. As President of the Association of National Grasslands, I am here to testify in absolute support of Title II and its purpose.

These lands are New Deal era land utilization grazing projects, renamed the National Grasslands through the Secretary of Agriculture's order in 1960. During the 1930's and early 1940's, many decades after the withdrawal and reservation of the national forests from the public domain, about 11.3 million acres of patented lands were acquired through purchase, condemnation and other procedures pursuant to FDR's submarginal land acquisition program.

The purposes for which national forests were reserved are quite unlike the policy goals of the Depression era land acquisition program. While the 1897 Organic Act established timber production and watershed protection as the primary purposes of the reserved national forests, the LU lands are administered for the primary purpose of land use adjustment. There is virtually no commercial timber production in any national grasslands.

The primary social policy objectives to the original land acquisition program were to give stranded Depression era farm owners and tenants an opportunity to relocate and to restore the rainfall short, dryland-farmed, acquired lands to more suitable uses, especially sustainable livestock grazing, and to harmonize the uses of acquired and intermingled private land.

Thus, the acquired LU lands have as their primary purpose soil and water conservation, secure human occupancy and sustainable livestock grazing.

The LU program objectives were codified with the Bankhead-Jones Farm Tenant Act of July 22nd, 1937. The primary public purpose objectives served by that act were to achieve social stability, to create the Farmers Home Administration, to promote more secure occupancy of farms and farm homes and to correct economic instability resulting from the present form of farm tenancy.

These lands were administered by the Soil Conservation Office until 1954 when, by Secretary of Agriculture orders, the Forest Service became the administering agency; and in 1974 Congress added these lands to the National Forest System with one sentence in the National Forest Management Act.

As a result of this history, each separate grassland is administered by a national forest and is subject to the same regulations, restrictions and management program requirements as the administering national forest. The local management system has changed from a cooperative, project-oriented management to more active, direct, process-oriented management. Grazing as a predominant land use is weakened, and nonuse is increasingly emphasized.

The Bankhead-Jones Farm Tenant Act has not been repealed, however, and in the meantime the human occupancy and economic stability objectives of the Forest Service land management has declined.

Assuming the National Grasslands remain under Federal administration, cooperative Federal agency/grazing association management—a true working partnership—coupled with the project-oriented approach to land and water improvement projects, could result in significant cost savings, including a reduction in direct agency costs and overhead. Local district boards could once again assume responsibility for improvements and their maintenance, as well as contracting with outside parties for archeological surveys, pasture and habitat monitoring, threatened and endangered species protection. The membership of these boards could be expanded to include representatives of other affected interests, as is being proposed on the BLM grazing in Title I.

It seems consistent with the underlying body of law, administrative procedures, cost efficiency in government operations and user preferences to proceed now with the transfer of jurisdiction authority from the National Forest Service to the direct administration by the Secretary of Agriculture. The National Grasslands, after all, are acquired lands converted to perennial grass cover for sustainable grazing use. They are not national forests.

Given the continued resistance on the part of the Forest Service to administer the former LU grazing projects for the purposes for which the lands were originally acquired or to treat them in the land planning process as entities different from the reserved and acquired national forests, an interagency transfer within USDA is entirely warranted. Laws like the National Environmental Protection Act (NEPA), the Endangered Species Act, Clean Air and Clean Water would still apply.

Without hesitation, the Association of National Grasslands encourages your support and passage of Titles I and II of the Live-

stock Grazing Act. Thank you for giving us this opportunity to be heard here today.

Mr. COOLEY. Thank you, Mr. Winter.

[The prepared statement of Mr. Winter can be found at the end of the hearing.]

Mr. COOLEY. Truman Julian.

### STATEMENT OF TRUMAN JULIAN, PRESIDENT, PUBLIC LANDS COUNCIL

Mr. JULIAN. Mr. Chairman, thank you for the opportunity to address the committee.

I am here today in my capacity as President of the Public Lands Council, which represents the interest of tens of thousands of Federal land ranchers who utilize over 270 million acres of BLM and Forest Service lands spread across 14 western States. The Public Lands Council coordinates the Federal lands policy for the National Cattlemen's Association, the American Sheep Industry and the Association for National Grasslands. My comments today reflect the views and concerns of all these organizations.

Mr. Chairman, I am typical of the membership of the Public Lands Council. My family's income is derived solely from livestock and the products they produce. In addition, I use Forest Service and BLM lands for at least 60 percent of our operation.

For those in Congress that think they do not have an impact on our lives, let me share part of a letter that I received from our banker with whom we have done business with for over 50 years.

I quote: "The Utah Production Credit Association requested on November 19th, 1993, that you start considering different alternatives or options regarding your operation as we were concerned with the future viability of the sheep industry due to changes in the wool incentive program and range reform.

"Again, Utah PCA is requesting you submit a letter outlining some alternatives or options you have considered."

This letter sums up the woes of the western livestock industry.

[The letter can be found at the end of the hearing.]

Mr. JULIAN. Mr. Chairman, I am typical in other ways of the Federal lands rancher of today. I am besieged by governmental rules and regulations. I am not a rich person. I am besieged by government policy, rules, and regulations. Chief among my concerns are regulations promulgated by Secretary Babbitt known as Range Reform '94.

The western livestock industry has had a rough ride in its partnership with the Federal Government the last few years. At this point, the livestock industry needs more than anything else to stabilize and maintain the industry infrastructure. The industry recognizes that the Livestock Grazing Act supplies a measure of stability and benefits to maintain that infrastructure.

We applaud the free formula and the provisions increasing the permit tenure to 15 years for the increased certainty and stability they will provide ranchers and for the resulting savings in processing costs associated with permit reissuance. Range management is the art of long-term strategies and commitment.

I am not suggesting the bill is perfect. Indeed, there are many in the industry who have submitted detailed comments as to how

the legislation might be improved. Still, ranchers have accepted that there will be change, and we are trying to formulate equitable change. It is time for the environmental groups to do the same instead of trashing all the options offered.

It is very important that the Forest Service be brought under the same set of rules as the BLM. To that end, we strongly support the concept underlying the process set forth in the National Environmental Policy Act analysis. We want the public, ourselves included, to have a meaningful bite at the apple when it comes to planning and implementing the management of the Nation's land. That opportunity should be at the plan level, however, and not on individual grazing operations, operating plants, or even on individual grazing bills, as is now the case.

Consistent with the long-term standing policy of Congress of deferring to the water laws of the various sovereign States, we agree that you should leave those decisions, including the questions regarding title to a specific water right for the specific purpose, to State law.

A great deal of discussion has evolved over the past three years on the question of advisory boards. We support the establishment of both BLM and Forest Service resource advisory councils at the level of the local administrative unit.

Mr. Chairman and committee members, I remind you again that your decisions on this legislation will dramatically impact the ability of my family and members of the western livestock industry to stay in the business of producing food and fiber for this Nation and the world. We do not want a handout from the Government; we want the opportunity to make a satisfactory living for ourselves and our families and the opportunity to continue producing and improving the quality and quantity of our livestock products, wool, lamb, and beef that we provide to the American consumer. Your decisions will determine our fate.

Thank you, and, Mr. Chairman, I would like my entire written statement to be entered in the record. I also have a copy of the comments that have come in from the various organizations and various committees that I would like to submit to you, and this morning you were shown a chart on how long it is going to take for some proposed action by the agencies.

I have a chart here that you might be interested in that is put out by the National Wilderness Institute that shows a similar process it will take the Secretary to come up with people for the RACs. You might be interested in this for the record.

[The prepared statement of Mr. Julian can be found at the end of the hearing.]

Mr. COOLEY. We appreciate that. Make sure you submit those to the clerk, and we will get out copies to everyone on the panel, especially the chart, if we can get that shrunk down a little bit, is that possible, not now but later on, and get it to each one of us. I appreciate that. Thank you, Mr. Julian.

Allan Smith.

# STATEMENT OF ALLAN SMITH, CHAIRMAN, PUBLIC LANDS COMMITTEE, ON BEHALF OF THE UTAH CATTLEMEN'S ASSOCIATION

Mr. SMITH. Thank you, Mr. Chairman.

I am Allan Smith, a third generation rancher from northeastern Utah operating a cow-calf operation of some 350 head. The Federal ranges are a vital part of my total cattle enterprise. I summer my cows on part of the Uintah National Forest for some three-plus months. From mid-October through January, I use my improved private range, then transfer my stock to my BLM permits until the end of February, at which time I return to my private ranges. Each one of these grazing units must be considered a part of the whole and are interdependent upon the other with little value on their own.

I support the Livestock Grazing Act, and the vast majority of the western livestock industry supports it, with a few minor changes. In the recent summer meeting of the National Cattlemen's Association Western Regions V and VI at Park City, Utah, all western State Cattlemen's presidents signed a letter of support for this bill. The National Public Lands Council here in Washington also supports this bill in the most part.

On behalf of the Utah Cattlemen's Association, Utah Farm Bureau, and the Utah Wool Growers Association, I urge passage of this bill for the following reasons.

The proposed grazing fee, even though it is a 30 percent increase from this year's fee, provides a fair return to the United States for the forage utilized by livestock. It is simple to calculate. Based upon the gross return of the livestock, all data would be gathered by the Economic Research Service, and it is similar to the ways other user industries, such as mining and timber, are charged for public land user fees. The proposed fee measures the value of the Federal forage after it is converted into beef, wool, and lamb.

My cash expenses, including past grazing fees on the Forest Service, have been running at about \$16 per AUM, not including any interest cost. Much of this high cost is due to fence building and maintenance and other Federal regulatory requirements. My BLM costs are somewhat lower. My cattle operation cannot sustain a much higher grazing fee. For this reason, I believe early passage of this bill is vital to the western rural economy.

There has been a drastic reduction of rangeland improvements since Secretary Babbitt's Rangeland Reform '94 was announced, because those pending rules create so much uncertainty about the viability of our industry. The proposed 15-year term permits will encourage future Federal rangeland improvements projects, once again allow the banking industry to support the western livestock industry, and provide a greater amount of stability.

I recommend that any standards and guidelines be developed at the BLM district or forest level. There is too much diversity in range conditions even at the State level.

I also suggest the proposed grazing advisory council members be allowed to serve on the councils of neighboring States wherever the permittees operate across State lines. This is very common in Utah.

NEPA concerns have been addressed by this bill and should allow for better operation of the agencies and promote less paper-



work and put more personnel back on the ground. Our industry welcomes constructive input from all disciplines in future management decisions in order to provide a sustainable forage base on which we depend.

The Livestock Grazing Act is fair to all interests, and this issue needs to be decided now so we can go back to providing food and fiber for our consumers and so Congress can move forward with other issues facing our great Nation.

Again, I thank this committee, and particularly the bill sponsors, for this opportunity to express my brief remarks, and I would be glad to answer any questions.

Thank you.

[The prepared statement of Mr. Smith can be found at the end of the hearing.]

Mr. HANSEN [presiding]. Thank you, Mr. Smith. I appreciate your comments.

Let me apologize. I have been speaker pro tem on a bill that has been around for a long time. We finally got that over with. But when you have that position, you have to go over there.

Let me just ask the panel, where do you all come from on this bill we have in front of us right now? Are you supportive? I would assume, and I will look at what you put in the record, but are there any real hang-ups with it that any of you have?

Mr. SMITH. I don't have any.

Mr. HANSEN. It is either this or Mr. Babbitt's. There is no middle ground in this. I don't mean disrespect for the Secretary, but those are the two alternatives on the table right now. You will get either Mr. Babbitt's or you get this. So you would basically want this as a group.

Truman, do you still want that road opened up in Sweetwater? Barbara wants to know, and so do I.

Mr. JULIAN. Congressman, I think this bill is a very good bill. It is a well-balanced bill. I guess I am disappointed in the interpretation of it, and I had to start wearing glasses here about three months ago, and I am having a hard time with or without them, and I would think that maybe some people in the Administration that testified this morning should. They talked about this being a single use bill.

To begin with, range reform is a grazing reform. This deals with one of the many issues, types of multiple use issues. But I went through the bill during their testimony, and I, for the record, am talking about the multiple use concept in two different areas of this bill, and, going along with other acts, it doesn't change anything in here. It doesn't interfere with other acts. And I mean, I can read them with my glasses. It is page 103, objective, and page 102, the application of the act, in which it lists all the acts it applies to. The Taylor Grazing, it doesn't change anything; it goes along with the multiple-use concept. That is on page 20. It talks about multiple use in here, and in grazing it is just one of the uses. Section 101-06, principle of multiple use and sustained yield. So somebody is not interpreting this bill right, and it recognizes multiple use, and I just wanted to make that clear.

Mr. HANSEN. Well, there are many sides on an issue such as this—that is why we have these hearings. You write it up the way

you think it ought to be, and we will surely take a good look at it. There is nothing perfect on any piece of legislation around here, as you well know, but if you feel it has a real discrepancy—I say that to every side of this issue—let us know so we have an opportunity to review it and see how we can work it out.

You still didn't answer my question. Barbara Cubin and Jim Hansen, we have tried to open a road that we felt should be open, and half of the citizens of Utah and Wyoming and Idaho have talked to me. Since you run sheep in that area, do you still concur that road should be open?

I have been talking to the district ranger, and we don't want to do something that isn't right and fair. On the other side of the coin, it seems the majority of the people do want some attention paid to that.

Mr. JULIAN. Mr. Chairman, I would love to see the road open. I have three range improvements that they fly the parts in with helicopters, and I have no way of getting in there now except by Shank's mare or horseback ride in there about 10 miles to even utilize it. If something falls out, I can't afford to hire a helicopter to take the parts back in there, whatever I need to repair it.

It allows me to do a better job of managing the allotment, and I would love to have it, but it has been going on four years now, and I have kind of given up the ship.

Mr. HANSEN. You have got a new forest ranger there who used to be with the Park Service down at Bryce. She has talked to me and maybe to Mrs. Cubin, I think. We would like to hear what you have to say.

I didn't mean to deviate. I apologize to all members, but I don't get a shot at Truman Julian very often.

The gentleman from Oregon.

Mr. COOLEY. Thank you, Mr. Chairman.

Doug, I am certainly glad you had an opportunity to come here. It is good to see you now and then, except on the crime bill. When on the other side, we had one of our colleagues talking about this bill creating a tremendous amount of paperwork, I mean, like a voluminous thing.

You indicated in your testimony that you thought that the LGA reduces, and in the case of range reform you have increased duplication of paperwork and the need for documentation for all permit decisions. Any comment on that for me, because everybody seems to misinterpret this legislation.

Mr. BREESE. I think it is interesting that you have had several comments now since this morning's comments about the amount of paperwork that this new bill would create. We seem to interpret it quite a bit differently. But the NEPA process would take effect at one level and then give us the opportunity to work on down the line and then fulfill those contracts that we have as permittees with the Federal land agency on a one-to-one type basis where we can work with them.

In many cases—and I know we have all been involved with projects on our permits that, once you bring a vast amount of public into that project, you don't have a project anymore because it becomes too complex, too time consuming, and too expensive to follow through on. I can think of two on my own situation.

I am sure everyone on the panel would concur with the fact if you don't have this flexibility to make those decisions on a contractual basis between yourself and your agent of the Federal Government that you are working with, the process becomes too cumbersome at that point.

But we feel like the bill itself does address the fact that NEPA still exists, just on a district level or at least a higher playing level, and not on each allotment-by-allotment basis, which is what is happening to us right now.

Mr. COOLEY. Thank you, Doug. I appreciate that. We have put a lot of hours on this.

I don't see any problems with the increase in paperwork. I think what we are doing is, we are going to eliminate some of it hopefully and not increase the burden, the load, on everybody.

Rob, I am glad to see you. You came out here from Oregon too, from the far eastern side of the State out there. Let me ask you something.

In your testimony you said that the agencies have been neglecting to use some of the scientific data for their decisionmaking process. Can you provide this panel, this committee, with some information as to specifically what you know of as being out there on the ground, what type of information that they should be using, if they are not, that is adversely affecting the use of our rangelands properly?

Mr. SKINNER. Yes, I can, Congressman. On two separate instances that come to mind right off, in the Malheur Forest—it would be just south of John Day, Oregon—there was an arbitrary reduction, 20 percent reduction, given to the permittees on that forest. They did appeal. There was absolutely no basis for the decision, and at that point the Forest Service knew they were in trouble. They moved their district ranger to another position, a lateral promotion, if you will. That basically freed them, and they were able to reinterpret what needed to be done, the acting ranger, and in that particular case the cattle were moved back on the allotment.

Closer to home, it happened on a BLM allotment where the cattle were removed because of a rare and endangered plant. There was absolutely no data to back up any of their claims. That is still in appeal. I don't know. It is still in limbo.

But yes, those two come to my mind right off.

Mr. COOLEY. Well, thank you.

We are going to have an opportunity to go again, sir, Mr. Chairman?

Mr. HANSEN. Pardon me.

Mr. COOLEY. We are going to have an opportunity to go on?

Mr. HANSEN. If you have additional questions, take it now.

Mr. COOLEY. Thank you very much.

Mr. HANSEN. Thank you.

The gentlelady from Idaho.

Mrs. CHENOWETH. Thank you, Mr. Chairman. I have a question for Bob Skinner.

I appreciate you for coming 3,000 miles, and 3,000 miles is just half the trek when I have been on your ranch and I have flown over your ranch, and it takes a long time just to get down, Bob,

so I really appreciate you being here. But do you see the role of the advisory council in this bill as a drastic departure from previous roles at all?

Mr. SKINNER. I absolutely cannot understand what they are countering, the other side is coming back at us on this, the people that are supporting it.

I served on the district advisory council for six years. I was chairman of that council for two years before they were disbanded by the Administration. I basically think that that particular structure is somewhat the same that we had then.

We have the multiple uses, which we absolutely support. We have always been a supporter. This industry has supported the multiple use concept from the very first, and therefore we absolutely welcome, you know, what the resource management plan—their input into the decisions on the land.

Then you move closer to the allotment management plan where you actually carry out your objectives on the land. That affects the permittee, and it affects the land managers, and at that point it is just more of a hassle, more paperwork, more expense involved, and I really don't see why, as long as you are achieving the objectives under the land use plan, why other interests need to be involved in that process.

So I really don't understand why the LGA, when it is a Livestock Grazing Act, will, as the other side says, elevate grazing over other uses when even the grazing board is basically designed to carry out those management objectives.

Mrs. CHENOWETH. Mr. Skinner, have you ever known of ranchers putting up gates on public roads to keep other multiple-use participants off your allotment?

Mr. SKINNER. Yes, I have. It would take a long time to explain. In our own instance, yes. In just a few words, I will try to sum it up as best I can.

In the land use plan, we have pasture in a three-pasture rotation. That was listed as Antelope Annex. It is abbreviated "Antelope AX." In the interpretation of the land use plan, our range concurred with this. Someone changed that or misspelled it to "Antelope EX," which is interpreted as "antelope enclosure." The cattle were removed, and we still have not gotten that resolved, and it has been six years.

Mrs. CHENOWETH. The cattle were removed by the BLM?

Mr. SKINNER. Yes, ma'am.

Mrs. CHENOWETH. Down in your area of southeastern Oregon and Owhyee County, about 20 years ago there was a great experiment that was begun with six breeding pairs of California bighorn sheep brought into that area.

Now, I know in Idaho when I was working on the Idaho training range issue, they figured that the that herd had increased to about 1,800, and over in your area, there are sheep all over those canyons, they say.

Am I correct in assuming that in large part it is because of a partnership of interests with the wildlife managers and the ranchers down there?

Mr. SKINNER. Correct.

Mrs. CHENOWETH. And that is the reason why we were able to see the increase in that bighorn sheep population?

Mr. SKINNER. According to the wildlife biologists on the missions habitat, the habitat was perfect. The sheep were introduced. They have expanded past their wildest dream. Basically, wildlife in general, the big game population in southeast Oregon, western Idaho has exploded, and that is one thing that we have a very hard time with, since we feel like we are stewards of the range, and we are constantly bombarded by the fact that the range is in a deteriorating state and it is in a horrible shape and we need to get things back in order. If things are so horrible out there, I wish someone would explain to me why the big game population is exploding.

Mrs. CHENOWETH. Thank you, Mr. Skinner.

Mr. SKINNER. Thank you.

Mr. HANSEN. The gentlelady from Wyoming, Barbara Cubin.

Mrs. CUBIN. Thank you, Mr. Chairman. And I wish to thank this whole panel for coming all this way to testify also. This is very important not only to you but to all of us. So thank you very much.

I do have a couple of questions for Mr. Julian.

The copy of the letter that you had distributed from your bank asking for an alternative plan in view of the fact that the wool incentive program was discontinued and in view of rangeland reform, I wondered if you did have any alternatives, or how did you respond to the bank?

Mr. JULIAN. My mother didn't raise a dummy.

Mrs. CUBIN. I believe that.

Mr. JULIAN. I did not respond to it. Naturally, if I would have responded, they would have had something to hold me hostage with. I was able to hold them off. I don't have any options. Basically, I depend on public lands for my operation. I do have checkerboard land, which every other section is private, but here again, because it is mixed with the Federal, actually, the Feds are dictating how I use that checkerboard land. I don't have a say on that. So I can't even go on my private-Federal checkerboard land.

It takes years to convert from one species of animal to another. I have a friend that has been working three years on checkerboard land, where he owns 50 percent of it, to convert from sheep to cattle, and he hasn't gotten it done in three years, and he even said that he would not go in the riparian areas, he would haul water and not even go in them. So I basically do not have any options.

On Forest Service, most of my Forest Service allotments are higher. They are steeper slopes. There is no way they would even consider converting my forest permits, and I have got quite an investment there, and I would just be forfeiting that. That would be gone. So I essentially don't have any options.

One of the options they said was: You could sell your sheep and buy cows. You could pay us back and have a few bucks left over to buy cows. Thank God I didn't do that now. I don't know if you have looked at the cow price lately. I don't have any options. Mine are sheep AUMs. There is a difference in the type of country they graze in. It is much steeper country, higher country, and I basically don't have any options.

Mrs. CUBIN. Thank you.

Opponents of this bill have said that under the LGA range health will deteriorate. What is your opinion of that statement?

Mr. JULIAN. I strongly disagree with that. The Federal agencies, I deal with the BLM and Forest Service, both. If Mr. Vento was here, I do have 15,000 AUMs. It is a family corporation with my dad, my mother, and my wife and three children. But they won't make a decision because they are afraid of being sued every time they turn around.

Mr. Hansen talks about this four-year road that is going on. I finally told the ranger here a while back, I said, make a decision, one way or another. It has been going on four years, and he won't make a decision. They won't make decisions.

I think it would expedite it, that you would get some decisions made. I have got a proposal that has been in I don't know how long, on BLM, on a private allotment that I own 50 percent of. I am willing—in fact, I have got the fencing material to fence it, put in a cattle guard, five miles of fence. When you figure out the construction, the materials, and everything, it is about \$3,500 a mile. So it is five miles of fence, and by the time you figure everything else in, I am talking about roughly \$20,000 of my own that I would put in. I can't get a decision on it.

I am hoping that this will expedite the process that we could get some range improvements going at least under LGA. I am willing to invest my own money because I have a stake in it. Under range reform, I don't think you are going to get very many ranchers to invest their money, so I just don't buy that.

Mrs. CUBIN. Thank you. My time is up.

Mr. HANSEN. The gentleman from California, Mr. Pombo.

Mr. POMBO. I have no questions at this time.

Mr. HANSEN. We want to thank the panel. It is very kind of you.

The gentleman from Oregon had two additional questions which the Chair will allow him to ask.

Mr. COOLEY. Mr. Winter, when you were talking about the grassland issue, could you tell me again who was authorized, who controlled the grassland before 1974?

Mr. WINTER. I sure could. They were administered by the Soil Conservation up until 1954 and then by the Forest Service until 1974. But the real land managers were the grazing associations with the grazing leases that we had with the Secretary of Agriculture, and they gave almost all the responsibility to us but technical help from the Soil Conservation and originally from the Forest Service. That is the way our grazing leases read. After 1974, we went very active National Forest management.

Mr. COOLEY. So up to 1974, you were primarily with the technical help from the Soil and Water Conservation. You actually managed with your own group of selected managers.

Mr. WINTER. Federal agencies had one person in our county up until that time. Today they have 20-some permanent employees and a multitude of part-time.

Mr. COOLEY. Could you tell me, what shape was the grasslands in at that period of time?

Mr. WINTER. 1974?

Mr. COOLEY. Yes, when you were basically doing it yourself with one person there and the Soil and Water Conservation people.

Mr. WINTER. I think the history in our county, the documentation—and we have permittees alive that would attest to that; our range scientists with the university system would—it was in very good shape.

Mr. COOLEY. Would you say it is comparable today?

Mr. WINTER. Yes, except for noxious weeds.

Mr. COOLEY. Except for the weeds, but otherwise it is comparable to today?

Mr. WINTER. Yes.

Mr. COOLEY. Thank you.

Mr. WINTER. If I could make one more comment, we have quite an exception with the interpretation of the history of our area that the Forest Service has taken in their testimony that includes a lot of people in our county that are still alive from the purchase days, including government agencies, county commissioners, and several points that they say are a misinterpretation of our history, and we responded with a letter from one of our permittees. If possible, I would like to put that into the record.

Mr. COOLEY. Is that OK, Mr. Chairman?

Mr. HANSEN. Without objection.

Mr. WINTER. I have got several points to make but they are made in the letter right here.

[The letter follows at the end of the hearing.]

Mr. COOLEY. Thank you.

One last thing. Truman, give me a little spiel on the seven-to-one sheep allotment situation. We have had, not in this hearing yet, but maybe it will come on in our discussion with the people in the industry, both cattle, sheep, et cetera, this question has come up, and I would like you to clarify that for the record.

Mr. JULIAN. Well, Congressman, basically it is for billing purposes on the seven-to-one, and there are documents to back this up, studies, that as the cattle population has increased in size that seven-to-one is realistic. There is scientific data to back that up.

Basically, I think the intent is strictly for billing purposes. As you know, the sheep industry just went through a pretty tough period. Congress last year wiped out 24 percent of my income.

Mr. COOLEY. Cattle are suffering, too. Congress passed a little law.

Mr. JULIAN. It is your time. In fact, I am hoping that might stimulate the sheep industry. Bob has been hitting me up for buying some sheep now. But it is basically for billing purposes, although there is scientific data to back it up. That is about comparable on the diet about seven sheep to one cow now, adult cow.

On the other hand, on the conversion rates, there have been some in Wyoming that were able to get converted from sheep to cattle, and that was at 17 to one, which depends on terrain and everything, but for the purpose of the LGA we want it for billing on, and I think that needs to be cleared up.

Mr. HANSEN. The Chair will recognize Mrs. Chenoweth for additional questions.

Mrs. CHENOWETH. Mr. Chairman and members of the panel, I just have a small statement I would like to make, besides thanking this panel, too, for coming so far and working so hard to help us come to the right decisions.

But Mrs. Cubin and I were speaking with Steve Stockman, a fellow colleague, on the Floor a few minutes ago when we noticed that he lost about 30 pounds. We asked him how did this happen and he said, well, he is on a diet of all meat, Dr. Atkinson's new diet, and he is eating lots of beef. So I am going to be promoting and trying Dr. Atkinson's new diet.

Mr. JULIAN. Isn't there any lamb in it?

Mrs. CHENOWETH. Lamb, yes. Lamb and even eggs and cheese and all those good things.

Mr. HANSEN. The Chair will thank the panel. Thank you so very much for coming. We realize you have come a long distance, and you have been very patient, as you all have.

Mr. HANSEN. We will recognize the next panel, panel number four: Paul Brouha of the American Fisheries Society; Gregory Green, New Mexico Voter Conservation Alliance; Elden Hughes, California Sierra Club; Joyce Mendel, New Mexico Wildlife Federation; and Emily Roberson, California Native Plant Society.

Ms. ROBERSON. Mr. Chairman, I am afraid we are missing some people. People may have thought we were the last panel instead of second to last.

Mr. HANSEN. We are grateful that you stayed with us. That is very nice of you. We apologize for keeping you waiting so long, but that is the way these things go. We look forward to your testimony.

Mr. Brouha, we will start with you, sir. Is five minutes OK for everybody?

Mr. BROUHA. That will be fine.

Mr. HANSEN. You heard the rules: Green, yellow, red.

#### **STATEMENT OF PAUL BROUHA, AMERICAN FISHERIES SOCIETY**

Mr. BROUHA. Thank you, sir. I apologize for having to leave as soon as I testify. My plane leaves soon, too.

Thank you for the opportunity to appear before you today to present the American Fisheries Society's views on H.R. 1713, the Livestock Grazing Act.

AFS is an international, professional, scientific organization of nearly 9,000 fisheries managers and aquatic scientists, founded in 1970, one of the oldest and largest educational organizations dedicated to strengthening the fisheries profession, advancing fisheries science, and conserving fisheries resources. We have chapters throughout North America, and especially in the West, working on aquatic habitat management.

Domestic livestock grazing is permitted on 159 million acres of Federal land administered by the U.S. Bureau of Land Management. Fifty-eight percent of the BLM rangeland is in fair or poor condition. Despite what Mr. Dombeck indicated this morning that improvements have been made, 52 million acres of big game habitat, 100 million acres of small game and nongame habitat, and 19,000 miles of sport fishing streams have declined in quality as a result of land management practices, including overgrazing.

Now, these degraded habitat conditions also have negative implications for endangered and threatened species, especially in the Upper Columbia Basin, as you heard with respect to anadromous fish.



It is well known that livestock often spend a disproportionate amount of time in riparian areas, the areas adjacent to streams, especially in the hot seasons in rangelands in the arid and semiarid West. Unfortunately, in these areas overuse has resulted in considerable damage to riparian zones with resultant degradation of aquatic and riparian habitats.

Specifically, stream vegetation has been reduced or eliminated, stream channels have been widened and aggraded, and erosion and head cutting has lowered water tables in some instances and reduced minimum stream flows.

Now, the most apparent effects on fish habitat are reduction of shade, cover, and terrestrial food supply. The resulting increases in stream water temperature, the degradation of water quality, the changes in stream morphology, and the addition of fine sediments mean fewer fish can survive in such streams.

Despite such degradation, we know that both resident and anadromous species subject to commercial, subsistence, and recreational fisheries are a tremendously valuable component of public lands. The good news is that with improved livestock management practices degraded fish habitats are restorable, and in fact there are some very good examples of such restoration in the rangelands of the West.

The American Fisheries Society's position statement, *The Effects of Livestock Grazing On Western Riparian And Stream Ecosystems*, which I have attached to this testimony and submit for the record, details cooperative science-based strategies to accomplish such restoration. Please consider these ideas as you address rangeland management issues.

Against this tableau of findings, against the knowledge of how to restore degraded streams, and against the increasing cooperative spirit to enhance overall productivity and achieve balanced multiple use on the part of public land users comes H.R. 1713. It proposes, in my opinion, to fracture the emergent cooperation between livestock grazers and other public land users by making livestock grazing a primary use on public lands—certainly below the land management planning level.

It disenfranchises the public by permitting only narrowly affected interests to participate in rangeland management, especially at the allotment level. It exempts grazing permits from the purview of the National Environmental Policy Act. It creates more than 100 grazer-dominated advisory boards which have the sole authority to establish range improvement objectives and to make management decisions. It prevents anyone except a permittee or a lessee from appealing a decision made by one of these boards. It sets livestock carrying capacity at the maximum stocking rate possible—and I quote...“without inducing permanent damage to vegetation or related resources”.

With this definition, at the same time H.R. 1713 provokes conflicts among present users, it also ensures that future generations of users will be battling over further degraded rangeland ecosystems.

I could go into greater detail about the provisions of the bill that set public rangeland management back to at least the early days

of the Taylor Grazing Act, but much of that has been covered in testimony already presented here today.

Suffice it to say, we oppose H.R. 1713 becoming law, and we strongly encourage you to endorse the new BLM regulations that have been arrived at through broad public participation throughout the West. They are not perfect, no. They do, however, focus on establishing rangeland health, on enhancing overall productivity for all rangeland users and for all rangeland resources, and they do this on a State or regional-based rangeland management system of standards and guidelines that would be arrived at through advisory committees, and especially by involvement of all interested parties. Further, they recognize scientific information and monitoring as a basis for cooperative, adaptive management of rangelands in case the advisory boards didn't get it right the first time.

Finally, the new BLM regulations would do all these things with about 100 fewer advisory boards operating in a much less politically charged atmosphere. Simply put, while they aren't perfect, we think the BLM regulations are better, cheaper, simpler, and should be more effective than what is proposed in H.R. 1713.

Thank you for the opportunity to testify today.

[The prepared statement of Mr. Brouha can be found at the end of the hearing.]

Mr. HANSEN. Thank you, Mr. Brouha. I appreciate your testimony. You said you had a plane to catch. We certainly don't want to keep you here and have you miss your airplane.

Mr. BROUHA. Thank you, sir.

Mr. HANSEN. May I ask where your headquarters are?

Mr. BROUHA. We are in Bethesda, Maryland, sir.

Mr. HANSEN. Thank so much for coming. We certainly appreciate your attendance.

Mr. Hughes, is five minutes enough time for you, sir?

Mr. HUGHES. Say again?

Mr. HANSEN. Is five minutes enough time?

Mr. HUGHES. Yes.

#### **STATEMENT OF ELDEN HUGHES, CALIFORNIA SIERRA CLUB**

I am Elden Hughes of South Whittier, California. I grew up on a cattle ranch that straddled the North Fork of Coyote Creek on the Los Angeles Plain. This was at a time when there were still cattle ranches on the Los Angeles Plain. And I served six years on the Bureau of Land Management Desert District Advisory Council. The BLM carries me as an affected interest on 58 grazing allotments.

The Livestock Grazing Act, which we are addressing, is flawed, and in my comments I wish to address two of the flaws, the elimination of public participation and the formula for grazing fees.

The Livestock Grazing Act eliminates public participation in the management of the public lands, and this is a mistake. I am going to give one example here. The BLM laid out a new fenceline range improvement. I discovered it while hiking, and I learned later that it was laid out based on a compass course from a bend in a back country road. This fence line would go directly through a major archeological site, Native American hunting blinds, and anthropomorphs—giant rock art carvings seven feet tall.

By alerting the BLM, the proposed fence line was resurveyed and moved a half mile to the south. The range management purposes were left, and an archeological resource remains unimpacted. This is the value of public participation.

Growing up on a ranch, I accepted the grazing lands as normal and natural. Only as an adult and after much travel and looking at other lands do I now see how heavily we impacted the land, particularly the riparian areas of Coyote Creek. Thistles over my head should have been a clue, but I accepted them.

Now I am watching the return of native grasses to the riparian areas of Kennedy Meadows in Tulare County, Wylie Creek in Los Angeles County, and Cedar Creek in Modoc County. Where there is improvement of the range, the public has been part of making it happen. The public has helped supply the vision and much of the volunteer labor. Now there is better fishing and hunting and all of the things that are a part of multiple use. Cattle still graze most of these areas, but they are moved in and out; they are not allowed to squat on the land and kill it.

Like me as a boy, there are ranchers who have never seen really healthy rangelands. The stumps of the cottonwoods are a clue that the stream dried up but doesn't tell them that the grazing practices were responsible. Good range management can restore the streams as surely as bad range management can kill them. Good range management pays, but it is hard work and it takes a vision of what the land can be again. The public can be a part of that vision.

A second flaw in the act is it represents an absolute retreat from marketplace forces. Using the sponsor's data, the formula produces a fee of \$2.10 per AUM for 1992. The cost of the grazing program exceeded \$3 in that year. This is a subsidy. The estimated fair market value of publicly-owned forage as defined and determined by the Departments of Agriculture and Interior in 1992 during the Bush Administration averaged \$7.68 per AUM; \$2.10 is a subsidy. The \$2.10 AUM is below what most State grazing fees are; \$2.10 is a subsidy. This is far below what permittees are subleasing for and far below capitalized permit values.

It is clear that the new formula, just like the old, is cowboy welfare, and we oppose it. Federal permittees should not have the advantage over the vast majority of livestock operators. Taxpayers should not underwrite a fee that allows permittees to profit at the expense of Treasury through subleasing. Federal lands should not be welfare lands, and the bad fee structure perpetuates overgrazing and grazing of marginal lands. It encourages livestock operators to resist reductions in authorized numbers. It takes us down the wrong road for all the wrong reasons.

Let's give the marketplace more than lip service. Let's look at real costs and real values. The public lands are enormously valuable and enormously productive. The Livestock Grazing Act is not the route to get us there.

Thank you very much.

[The prepared statement of Mr. Hughes can be found at the end of the hearing.]

Mr. HANSEN. Thank you, Mr. Hughes. I appreciate your testimony.

I will now turn to Emily Roberson of the California Native Plant Society.

Thank you. You are recognized for five minutes.

### STATEMENT OF EMILY ROBERSON, CALIFORNIA NATIVE PLANT SOCIETY

Ms. ROBERSON. Thank you very much. Thank you for the opportunity to come here today and testify on the Livestock Grazing Act of 1995.

I am senior land management analyst for the California Native Plant Society. I have degrees in soil science and plant ecology as well as a Ph.D. in microbiology from the University of California, and I have more than 10 years of research experience in California ecology.

The California Native Plant Society is a nonprofit scientific and conservation organization and a national leader in rare plant research and conservation. We have participated for many years at all levels in the management of BLM lands and national forests.

I would like to start by emphasizing that the California Native Plant Society is not anti-grazing. We are against poor grazing management that damages our public lands and resources, and we work to promote grazing management practices that are compatible with the health of native plant communities and with the proper functioning of ecosystems.

Unfortunately, as we have heard, many public rangelands today are experiencing serious and widespread damage due to past and to present poor grazing management. This damage is costing taxpayers millions of dollars each year in restoration and administration costs.

One of the reasons for this ongoing damage to our public lands is the continuing polarization of the debate around public lands grazing. These days it seems that we only hear about the two most extreme positions in that debate: Those on one side who would like public lands grazing with few or no restrictions and those on the other who want to throw livestock off the public lands altogether.

That view of the debate is inaccurate, and it is extremely counterproductive. What it leaves out is the fact that in many places there are people working to solve grazing-related environmental problems without eliminating livestock from all public lands.

Now, it is true that some public lands are simply unsuitable for grazing because the resources they contain are too fragile or sensitive or because of conflicts with other uses, but there are many places where improved management can make a real difference.

In California, for example, in places like the Colusa Plain in the Central Valley, livestock operators, the BLM, and conservation groups are working cooperatively to use specialized controlled grazing management to try to restore native plant communities. In other places we are working with the agencies to adjust stocking rates and managed season of use to protect riparian and recreation values on public lands.

We are concerned that this kind of cooperation, innovation, and good public land stewardship would be discouraged under the Livestock Grazing Act of 1995. For example, the bill would eliminate review analyses under the NEPA, but NEPA reviews perform sev-

eral extremely valuable functions. It allows the agencies, livestock operators, and all interested parties to review past management and to evaluate new scientific information and new management techniques, and it allows the public, the taxpayers who are the owners of our public lands, to have input into how their property is managed.

It is important to remember that NEPA doesn't require any management activity on the ground, it only mandates civic analysis, public disclosure, and discussion, all useful activities in our modern democracy.

Besides curtailing public and scientific review through NEPA, the act would make it more difficult for the agency and for ranchers to improve management of public lands. For example, the act would make it difficult, if not impossible, for the agencies to correct overstocking even in the face of obvious resource damage, the act would prohibit livestock operators from voluntarily resting their allotments to protect resources, and the act would prevent the agencies from requiring the most basic resource protection measures in grazing permits.

Good grazing management benefits everyone. It benefits livestock operators because it improves the land's ability to produce forage and livestock, and it benefits the public by preserving valuable resources and uses on publicly owned lands. In places like California, where recreational use of public lands is big business, conservative management of public lands is critical to our economy.

Two of the things we are most proud of in this country are our democratic ideals and our tradition of leadership in science and innovation, and the one place we should expect to see those traditions most strongly expressed is in the management of public lands. That means it would be a mistake to begin excluding certain activities like grazing from public input and public scrutiny, and it means that our public land management should be held to the highest standard of the latest and best science.

Mr. Chairman, members, this bill does not meet those standards, it is not in the best interests of our public lands, and it is not in the best interests of American taxpayers, and we urge you not to pass H.R. 1713.

Thank you.

[The prepared statement of Ms. Roberson can be found at the end of the hearing.]

Mr. HANSEN. Thank you for your comments. We appreciate your statement.

We have been joined by Gregory Green and Joyce Mendel.

We appreciate you both being with us. What we will do is we will recognize you each for five minutes. Is that sufficient enough time for you to give your testimony? Your written testimony will be included in its entirety in the record.

Mr. Green, we will turn to you now.

#### STATEMENT OF GREGORY GREEN, NEW MEXICO VOTER CONSERVATION ALLIANCE

Mr. GREEN. Thank you, sir.

Mr. Chairman, members of the committee, my name is Gregory Green from the New Mexico Conservation Voters Alliance.

The Bureau of Land Management is responsible for managing over 270 million acres that belong to the United States. Under existing law, they must assess the impacts of different uses of public lands on their use and users and determine how to balance these competing demands on resources provided on public lands. The main goal of the management program is to restore and maintain the health of our lands for the public today and for the generations of our future. This land can support many uses and provide those uses in a sustainable way that do not destroy the land and its resources.

As a person who grew up on a ranch in Oklahoma, I cannot even think of leasing out land under the Livestock Grazing Act as it is pending before this subcommittee, and that is what we are talking about. We, the public, are the owners of this land, and you are proposing to lease out this land under the conditions in this act. Would you lease out land that you could no longer hunt, fish, backpack, or drive on?

Today millions of Americans visit our land from around the world to explore and enjoy the diversity of the resources that are to be found on our BLM lands. They are available in a wide variety of uses including hunting, fishing, backpacking, bird watching, and off-road vehicles. They should have every right to use this land, the same right as the livestock industry should have in making its profits.

The Livestock Grazing Act would change the way these public lands are managed, even resulting in keeping some public off some lands. Access to these lands in many areas depends on rights-of-way which are granted by private landowners across private lands adjacent to these public domains. The bill raises questions about the future of these right-of-way agreements. Would you lease land on which you had little or no say?

Under the proposed bill, only affected interests will be given the opportunity to comment on grazing decisions. Under the restricted decisions of affected interests, ordinary citizens who use and care about these lands may not even have the opportunity to be heard unless they can prove through substantial evidence that they are affected by livestock grazing. In no other branch of this Administration that I know of are you required to meet this kind of burden of proof before you can receive information and express opinions.

Would you lease out land if you could only have a say if you are seeking consensus solutions?

Under this act, no person may serve on an advisory council unless he or she has determined a commitment to seeking consensus solutions to resource management issues. This seems to fly in the face of the First Amendment rights in keeping people that have varied interests on these councils.

I would only lease out land to good stewards. According to the Environmental Protection Agency, streamside or riparian zones are in the worst shape in this century due to poor grazing practices. The majority of the public lands remain in unsatisfactory ecological condition due to past centuries of abuses.

Under the Livestock Grazing Act, the BLM would be unable to make changes in grazing practices because the bill limits what kinds of decisions managers can make regarding grazing even

when the resource damage due to grazing is occurring. It would take years of expensive monitoring before changes in grazing management could even be considered under the Livestock Grazing Act. The BLM does not have these systems on all public lands, and therefore no action could be taken in many situations.

Would you lease out land where protecting quality of riparian areas, habitat, and ecological sites would be limited? The Livestock Grazing Act states that the only stocking rates changes that could be made must be supported by rangeland studies. Rangeland studies are limited to measures such as utilization, trend, and production that indicate the conditions of the livestock forage resources. The impacts of grazing on other resources are not reflected in these studies and therefore cannot be considered for reducing stocking rates.

There are many things in these bills as a landowner that I would not even think or consider using on leasing out my own land. The proposed legislation would deny owners of public land, you and I, that right to enjoy their land. It is my opinion that this bill is not in the public's interest, the owner's best interest.

Thank you for the opportunity to comment on the Livestock Grazing Act.

[The prepared statement of Mr. Green can be found at the end of the hearing.]

Mr. HANSEN. Thank you, Mr. Green. I appreciate your testimony. Joyce Mendel, I recognize you for five minutes.

#### **STATEMENT OF JOYCE MENDEL, NEW MEXICO WILDLIFE FEDERATION**

Ms. MENDEL. Good afternoon. My name is Joyce Mendel, and I represent the New Mexico Wildlife Federation. Thank you for the opportunity to testify before the subcommittee about the Livestock Grazing Act, H.R. 1713.

The New Mexico Wildlife Federation was formed in 1914 because people of our State were concerned about the loss of our wildlife. We promote multiple use management for the public lands, with a place for wildlife habitat, livestock raising, and other public land uses. I am here to say that the Livestock Grazing Act should not be adopted by Congress.

Currently, the Bureau of Land Management and the Forest Service lands constitute about a third of New Mexico's land area and support a large part of the wildlife-related activity in our State. These activities generate \$750 million annually.

The New Mexico Wildlife Federation wants the public lands managed for wildlife, as well as for livestock, and to provide recreation for hikers, photographers, wildlife observers, anglers, and hunters.

The New Mexico Wildlife Federation is concerned about the impact of the Livestock Grazing Act on wildlife on the public lands. We are involved with conservation projects to promote wildlife habitat on public lands. While we are working to improve conditions for wildlife on public lands, the Livestock Grazing Act would undermine these efforts by making livestock grazing the dominant use of the land. The BLM would be limited in managing for uses other than livestock, which could harm the wildlife that reside on

public lands or limit the manager's ability to protect sensitive areas.

In addition, the legislation could have significant long-term impacts for the public lands. The 1994 Rangeland Reform Draft Environmental Impact Statement projects a long-term decline in riparian and wildlife habitat and recreation opportunities on BLM lands under current grazing management. If the Livestock Grazing Act is passed, that decline could accelerate. At best, current levels of grazing use would be mandated under the bill, maintaining the current rate of decline.

The public's role in grazing management on public lands also would be severely limited if this bill were enacted. The public would no longer be able to participate in decisions about grazing permits or decisions about grazing allotments. The grazing advisory councils, which are given authority to decide how the lands will be managed, will include no members of the public who do not have grazing interests. As the demand for many uses for the public lands continues to grow, now is the time to broaden public participation, not to restrict it.

Our ability to use the public lands in the future is at risk as well. The bill would waive any consideration of a rancher's willingness to provide access to public lands when the BLM grants a permit. Access to public lands could become more restrictive.

The bill also would waive consideration of major wildlife protection laws for ranchers. The current regulations require that ranchers comply with the Bald Eagle Protection Act and the Endangered Species Act, or jeopardize their grazing privileges on public lands. But the Livestock Grazing Act deletes these laws from consideration.

Thank you for the opportunity to present our views on this legislation.

Mr. HANSEN. Thank you very much. We appreciate your testimony.

[The prepared statement of Ms. Mendel can be found at the end of the hearing.]

Mr. HANSEN. Contrary to our last panel, this panel is entirely against the particular piece of legislation we are looking at. Let me just throw a couple questions out, if I may.

Question number one is you folks have all talked about the cattle people on the ground. Of course we could expand that to timber, we could expand that to mining, those who pay something for use of the public ground. Do you feel that everyone who uses a public ground should pay something? Keep in mind that this government that you own subsidizes the use of the public on the ground to the tune of \$1.3 billion a year. That is a subsidy regardless of where you put it.

Twenty percent of the use of the public ground are the three I just mentioned, so 80 percent are people like me. I backpack. I fish. I hunt. I camp. My kids all ride mountain bikes, all that kind of stuff. Should I pay as well as the three I talked about? Somebody want to respond to that? Mr. Hughes.

Mr. HUGHES. I would draw a couple distinctions. It is like asking should wildlife pay AUMs in one sense.



Mr. HANSEN. You mean on the Pittman-Robinson bill? Excuse me, I didn't hear you, sir.

Mr. HUGHES. Where is that coming from, anyway? I mean, it is like asking should wildlife pay AUM fees to exist, is kind of on the periphery of what you are asking.

Another thing is, if a resource of the people is being used for economic benefit, which certainly the grazers are and the mining companies are, and ski lifts and other like things where they are using it for economic benefit to ask a fee is a very reasonable thing to do. Now should everyone whoever stepped——

Mr. HANSEN. Your criteria is if you are using it for——

Mr. HUGHES. I am drawing the distinction of economic benefit.

Mr. HANSEN. Physical benefit, medical benefit, peace of mind benefit, do they count?

Mr. HUGHES. Also turning a profit with the use of it.

Mr. HANSEN. Anybody who turns a profit should get a use out of it.

Mr. HUGHES. They are more reasonable to ask a fee of those people.

Mr. HANSEN. What about the outfitter?

Mr. HUGHES. Of which?

Mr. HANSEN. Outfitter.

Mr. HUGHES. They do pay fees.

Mr. HANSEN. Some do.

What about the bird watcher who organizes a group of people and takes a bunch of scouts in and mom and dad pay the guy 25 bucks for each kid, should he pay?

Mr. HUGHES. I would draw a line at the boy scouts, probably shouldn't pay a fee, take the kids out there. There are some things that should be there as a public benefit.

Mr. HANSEN. Thank you. What about the people like in Grant County, Utah, who use the public ground and turned it into the best biking and biggest biking place there is in America, should those people pay for use of the public ground?

Mr. HUGHES. If they are there for economic benefit, I would think to ask a fee is reasonable.

Mr. HANSEN. That is your criteria, which is kind of a hard line to draw sometimes, I would assume.

Anyone else want to comment on that question? Joyce Mendel, you wanted to comment, please.

Ms. MENDEL. Well, I can't comment on that for the New Mexico Wildlife Federation. I don't know that they have a position on that. But I know with regard to State lands, a lot of the bird watchers and hikers were in favor of something where they would pay to go on to State lands, because it would enable them to get on some lands that they had been having trouble getting on to.

Mr. HANSEN. This committee is trying to figure out how to pick up the billion three that we are in the hole on as we are taking care of the Jim Hansens of the world who like to fish, hunt, and camp. Because that is a free gift to me. I get it free.

Deer hunting in the State of Utah is a big deal. People come from all over and it is big, big money to southern Utah and northern Utah. That is to the sportsmen and the gas stations and the convenience stores, people like that.

The question that constantly comes up, I don't mean this disrespectfully to anyone, please don't take it that way, but we found a lot of people that like to use the public ground but they don't want to pay, and they are always talking about the low cost cattlemen on there. It is true, I agree with you, Mr. Hughes, he does get an economic benefit.

But I think as far as benefits go, you would make quite an argument. Certain benefits accrue to a lot of people who go out and use it, or why do they go use it? I mean, that is a great thing. My family would rather go backpacking and boating than about anything in the world, and it is a great benefit to my family. Maybe we don't see it on an accounting sheet. We surely see it other ways.

My time is up, and you all heard those noises go off. And those two lights in the back, which I think you are probably now all experts on this sitting here all day, mean that we have a vote on. And I have another obligation that leadership has asked me to do, so I will ask Mr. Cooley if he will take the chair when he comes back.

And again I will apologize. I would like to recognize Mr. Max Peterson, past Chief Peterson. I hope the members of the committee realize that this was a chief of the Forest Service for many, many years, an extremely outstanding person. We are very grateful to have you in our presence.

We will now go vote and Mr. Cooley will take over when he gets back. I really feel I am missing out because I find this very interesting and I would like to have another opportunity, but I do want to thank the members of this panel and the next panel that is coming and those who have been here; you have been very gracious to wait as long as you have. And believe me, everything you have said we will weigh in detail. Thank you. We will stand in recess for just a few minutes.

[Brief Recess.]

Mr. COOLEY. [Presiding.] I call the hearing back to order.

I want to apologize to the panel, but when you get a 15-minute vote and they tell you to wait around because you have one in 10 minutes, it takes you 10 minutes to walk back. So we were a little bit longer than we should have been, and I want to apologize for that. I appreciate your indulgence in sticking around. I am it, so let's go.

I think the first panelist, his questions were to Mr. Hughes, right?

Mr. Hughes, you made in your comment when you were talking about things that—changing a fence line and doing things like that, you really don't believe that the people in the grazing or the cattle industry would deliberately destroy archeological value things just for a fence line because they wanted to destroy this.

Don't you really feel that the people in the cattle industries are basically good stewards of the land that would like to preserve the natural resources as well? Because by your testimony, I felt like you felt that the cattle industry was maybe willy-nilly about our assets and about the value of the American heritage. Do you really think that we would like to destroy an archeological site?

Mr. HUGHES. Of course, I don't think that the average rancher or family out there wants to destroy the archeological resources, no,

clearly not. But they may not be aware of them. They may inadvertently do it, and that is what the BLM was doing. I don't know that the allottee, Roy Hunter, would know of that particular site. I know on other sites there, his cattle have sat pretty heavy on the springs. So having input, public input, is a valuable thing even on the allottee level, allotment level.

Mr. COOLEY. That is the point I was making. I just wanted to bring that out, is that really I felt that in your testimony, that you were implying, maybe you didn't mean to, but I took it as that we in the cattle business were not really good stewards and we did not really concern ourselves with the natural environment around us and I wanted to make sure that we both understood each other.

When you talked about the costs per AUM and you thought that this was a subsidy to the people using the Federal lands and you didn't like the formula, does the Sierra Club have a formula that they think was more equitable, would better represent the use of public lands?

Mr. HUGHES. I think in this process it should look more at the values involved. Do we have a formula? No. But whatever formula should look more at the values and comparable values and marketplace values and not be arbitrarily low. That is all.

Mr. COOLEY. OK. Do you feel that the formula now in use and the one presented in H.R. 1713 is abnormally low?

Mr. HUGHES. Yes, I think they subsidize ranching. Now that is something Congress can decide to do, but I think it should call it that if it does it.

Mr. COOLEY. Well, because you heard the Chairman speak before he left, maybe we are, maybe we are not, but are we subsidizing other uses of Federal land in other areas? You do agree that Federal lands should be used in multiple use, right? I mean, does the Sierra Club believe that?

Mr. HUGHES. Yes, I agree with multiple use.

Mr. COOLEY. OK. Because in the past, if you look at some of the past testimony by individuals of certain groups, they really felt that possibly multiple use was not the ideal thing for Federal lands, as you probably know. It is on the record that many times they felt that certain uses of Federal lands probably should be restricted, if not eliminated. But so now the Sierra Club is in a position that they should be multiple use lands and grazing is part of the use of multiple uses?

Mr. HUGHES. Well, clearly there are places that some uses shouldn't occur.

Mr. COOLEY. Well, no. No, I know that there are specific areas. I agree, nobody in the cattle business will disagree with you. But as a concept, would you feel that the Sierra Club philosophically feels that in multiple use, part of the multiple use is grazing?

Mr. HUGHES. Absolutely.

Mr. COOLEY. OK. I appreciate that very much. Mrs. Roberson.

Ms. ROBERSON. Yes, sir.

Mr. COOLEY. Were you here this morning? Were you able to be here when Mr. Dombeck spoke this morning?

Ms. ROBERSON. Yes.

Mr. COOLEY. Did you hear him make the statement that the rangelands today were in better shape than they have been in many years?

Ms. ROBERSON. Yes.

Mr. COOLEY. Well, in your testimony you seemed to feel like the rangelands were in worse condition and yet the Agency says they are in better condition.

Ms. ROBERSON. No, what I said is there is continuing damage. Those two are not mutually exclusive, and I think Mr. Dombeck, in fact, addressed that point. At the turn of the century, it is well-documented in the Agency's literature and the scientific literature that the damage to western rangelands was at its height.

Mr. COOLEY. You mean 1900?

Ms. ROBERSON. Around the turn—yes, exactly.

Mr. COOLEY. I don't think any of us that are in this business would probably not agree that there were some areas that were not properly managed. But we have had 94 years since that time. What do you think of the shape we are in today?

Ms. ROBERSON. I think that we have made some progress. I think there is much more progress that can be made and should be made. There are areas that are still being damaged by poor grazing management.

Mr. COOLEY. OK. So you don't think that Mr. Dombeck's statement was totally valid. It has some credibility but not totally valid?

Ms. ROBERSON. That is how I recall his testimony, was that at the turn of the century, conditions were worse than they are now, that progress has been made, but that there is still progress that can and should be made, that there are still areas that are in need of improvement. That is how I recall his testimony. But I could be mistaken.

Mr. COOLEY. Well, if I recall properly, he said about 95 percent of the rangeland now was in improved condition, and probably about 5 percent was not, and that there were about 95 percent good users and there were still about 5 percent bad users or people who are not, let's say, doing things that would benefit the rangeland themselves.

I was encouraged by his statement and I didn't seem to have any of the other people in the Administration say that what he was saying was not true. I think it was a positive for the grazing industry. I don't think any of us will deny that there are bad hombres in every society, and I am not going to sit here, nor would anybody in the industry tell you that we are not going to have people who are going to be abusive. Hopefully, we can correct that system and make sure that it doesn't happen. But I just wanted a recognition from your group to understand that we are better off than we were in the 1900's and that we are improving our good stewardship of the land and hopefully through H.R. 1713, even though you don't agree, we can do a better job. But we will get around to that when we get down to the discussion.

I want to say one other thing, too, is that I know in your testimony you talked about the taxpayer and the benefits to the taxpayer of America, and I also want to say to you, and I know that the grazing industry will tell you that they are taxpayers as well, as they contribute quite a bit in taxation, and I think that the Fed-

eral lands were really developed or set aside for the beneficial use of all, meaning grazing as well.

Ms. ROBERSON. We agree on that point, sir.

Mr. COOLEY. I think if you look at H.R. 1713, you will realize this isn't just grazing, it addresses other issues. I know people are concerned, but really basically it addresses one part of it and there are other multiple uses involved in the process.

Mr. Green, I don't know if you read the bill or not, but I have read the bill because I was one of the main contributors to the bill. And we have been very, very careful to make sure that we did not prohibit people from using public lands when there were grazing permits on that. And in your statement, you said this bill prohibited public use of grazing lands. That is not true. We really don't prohibit that.

Another thing that this bill does not get rid of, NEPA. It simply says that the land use, first use plan, not permitted by permit. NEPA was not meant to apply to permits, and we wanted to clarify that, even though it has been something that has sort of floated around in that area. And we have had a lot of discussion with the agencies as well, and they basically agree with this, but right now it is not defined. So we tried to define that.

Now, you know, you can probably find objections to that, and that should be your right and I appreciate that. But I want to tell you that it does not get rid of NEPA, just so you didn't misunderstand it. NEPA is still there.

Mr. GREEN. Mr. Chairman, I understand that NEPA still would apply in certain cases. But I think that we are very much for that in certain cases where there is good rangeland, that when these permittees come back up, that not always will we have to go ahead and do a full-blown NEPA advisory. I mean, if they can look at these lands, see they are in good condition, see they are continuing along those lines, that we are still fine with that.

Mr. COOLEY. Well, it only applies to major actions, I know that. The one thing I wanted to tell you, I wish that the agencies were here and especially Mr. Thomas, is that we understand the predicament he has himself in as far as NEPA is concerned and reissuing permits. We understand that. We are very appreciative of that problem.

I think that the frustration you heard today, if you were here earlier, and also by Congressman Ensign, is that, number one, is without any action by themselves, meaning the leasees, the permittees, without any action themselves, they are having a problem reissuing permits because the NEPA reports were not done.

Here is the Federal Government over here not complying with the law, affecting the use by the permittees over here, when they had nothing to do with the problem. And I think in all fairness, no matter who you are in this, on what side of the spectrum you are in, with no land use and with multiple use, government should not penalize those who have no control over what government does when the government does not perform what it is supposed to do. This part of this problem with the last lawsuit and then the eventual compromise involved in the process, is because government did not comply and the people and the permittees or the grazing community were adversely affected. I think in all fairness you would

say as well, that that should not be the role of government. Government should be here to make sure that things are complied with, but also make sure they do not respond to the law, that the permittees are not penalized. Yet in reality that is what is happening in the current—

Mr. GREEN. I agree with you, Mr. Chairman, that there are some problems with some of the processes. I am afraid we are going to throw the baby out with the bath water.

Mr. COOLEY. I hope that H.R. 1713 will, when you take a real look at it, listen to the testimony, feel a little more comfortable with the issue. And I think that, as said earlier, this is probably not perfect. I mean, there is no such thing as perfect here. But I think that if you look at it objectively, really truly as good stewards of the land, we have tried to address the problems involved in the process and listen to the West.

Mr. GREEN. Mr. Chairman, to back up to your earlier statement about access to the land and to the multiple use, the other feeling is that, reading through this bill, that that part is pretty much almost absent in this bill; that it puts grazing and livestock interests far above most of the multiple use interests, or so I feel as I read through this bill.

Also, in section 141, it eliminates some of the right-of-way as a violation. There are different areas where as you start reading through it from a multiple-use standpoint and from a ranching standpoint, because I kind of have a little bit of background in both, I see that it seems to be very heavy on one side and very light on the other.

Mr. COOLEY. Of course I don't agree with your interpretation, but that is why we are in this process.

Ms. ROBERSON. Mr. Chairman, may I briefly address the NEPA point that you raised?

Mr. COOLEY. The what?

Ms. ROBERSON. The NEPA point that you raised a moment ago, just very briefly.

Mr. COOLEY. Yes, you may.

Ms. ROBERSON. Just one of the concerns that we have is that the process under H.R. 1713, the process that has been in place would be changed. And I spend a lot of time participating in NEPA at all levels and have commented on a lot of land use plans for both BLM and Forest Service. And when we participate in that, we do it under the understanding that a lot of the site-specific detailed grazing issues will be dealt with at a later date at the allotment level. And it would be almost a breach of a commitment that has been made between the public and these agencies to change that at this point, after so many of these plans have been out for public comment on that basis. That is one of our big concerns.

Mr. COOLEY. Well, that will address the question I am going to ask Ms. Mendel, when she talks about the public, and she uses that term quite extensively in her testimony, which I really did appreciate that. I thought that maybe she might have an opportunity to check page 80 of the bill.

In the last paragraph it talks about representation of interest and it talks about multiple users, affected land holders, counties, social and economic interests, selected State and county officers,

and public at large. Now that of course is on the Resource Advisory Council. Then if you turn over to page number 85, where we talk about the Grazing Advisory Council, and representative of interests there, you talk about permittees, leasees, affected landowners, county, social and economic interests, and elected State and county officers. Now, I think that this is a pretty good cross-section of, "the public".

Where in your association do you find some flaw with the selection of these committees? I would appreciate some kind of recognition here. Did we make a mistake somewhere? What did we leave out? I mean, should we have said, and I am being facetious of course, but should we have said, Mrs. Jones from New York City, or what did we leave out here that you feel that we are depriving you of a proper representation? I am interested.

Ms. MENDEL. Well, on those two different councils, there is a difference in their responsibilities. It says the Resource Advisory Council shall have the responsibility of advising the Secretary and appropriate State officials on major management decisions. Whereas the Grazing Advisory Council, which consists of those with ranching interests, shall set range improvement objectives.

Mr. COOLEY. OK. But where do you feel that the public is deprived here? I want to know where you feel that, so I can take a look at this and see your criticism, I would like to know where it is.

Ms. MENDEL. The public is advising.

Mr. COOLEY. State officials and county officers are not public? Part of the representation interest, permittees, leasees, affected landowners, county, social and economic interests, elected State and county officers? I don't know where we left out. I mean, what would you have liked to have seen in there that would have made you more comfortable with this selection?

Ms. MENDEL. Just an ordinary citizen who isn't a State or county officer.

Mr. COOLEY. County, social and economic interests. Social, is that not part of your criteria?

Ms. MENDEL. OK. If it includes those who have environmental interests, if that is what you are calling a social interest.

Mr. COOLEY. Yes, what I am trying to say to you I guess, and I don't mean to be confrontational or to make you feel like I am being a bully or anything, is that we honestly sat down for many, many hours and tried to write a piece of legislation that we thought would look out for your interests, the public interests, as well as the industry's interests, as well as the State interests and elected officials' interests.

The thing is, is that is what is so important about these public hearings; to hear your input and to ask you how you feel that we have maybe not addressed your concerns I think is what this process is really about. And I want you to go away from here knowing that we are here to represent everybody, not just the grazing interest, and not just "environmental interests" if that is what you want to say it is. But to represent everybody, to put a bill together that is acceptable, generally speaking, for everybody on both sides of the issue.

As Chairman Hansen said to you, nothing is going to be perfect. I wish we could do that. We are just human beings and we have some problems. But trying to address all of the issues and make sure that everybody receives fair representation is really our goal. So when I look at this and I hear the comments, I start saying to myself, what did we do wrong that makes you feel that we have cut you out? And that is what I would like to have—your input.

Ms. MENDEL. OK. Also, even if that includes an environmental group in social interests, it is restricted to people in that county, whereas, in Bernalillo County, well, there is a lot of land on the west side of Albuquerque, but a lot of our interests are perhaps in another county, on the Rio Puerco, for example, which is BLM grazing land.

So you are restricting this to people within a particular county, and maybe the people in other counties have a lot of use on that land and have an interest in that land. Also, the public is cut out in other areas of this bill, such as it makes it harder to be called an affected interest. In fact, in the Senate bill, they are cutting out affected interests.

Mr. COOLEY. Well, in this bill, though, it is not cut out, it is there.

Ms. MENDEL. It just makes it more difficult to be considered.

Mr. COOLEY. I am just saying it is in this bill.

Ms. MENDEL. Yes, it is.

Mr. COOLEY. Now, we have not had the privilege of going on on the other side of the building, and we really don't know, honestly, I am not trying to tell you any stories, we don't know what is happening over there. We have to wait and see what comes across and take a look at it.

I guess what I am really trying to say to you is that we want a fairness on both sides, and we need to come to a joint agreement on both sides for the best utilization of public lands, both for the environmental community and for the grazing community. And I think that in the past that most of the grazing community has shown good stewardship and concern for the environment.

As you know, in my part of the State, we are fencing riparian areas and we are doing other things without even being mandated. People are starting to pick up on things that they feel should be done. So I think that a lot of your concerns, and our concerns as well, are being taken care of. I just want you to understand that in H.R. 1713, we tried, it is not perfect, to address everybody's concerns. And I think we have done a good job. You probably could nitpick here and there, and I understand that, and that is your right and privilege and I am glad you are doing that, because it gives us an opportunity to take a look at it, too. As you know, this is not concrete, and it has some flexibility in that process.

Ms. MENDEL. One other place it cuts out the public, besides making it more difficult to be called an affected interest, is in permit decisions. The public would not be informed of those decisions. And every once in a while we comment on some of those decisions and to comment, we need to be informed of them.

Mr. COOLEY. OK. Well, let me address one thing and then I will go on to Mr. Hughes, and then I have my fellow colleague here who would like to ask a few things, too.



I guess philosophically we probably have a very wide difference here. When I think of the public concern, I think of people directly affected by laws, legislation, and decisions at a local community level. We have a problem, I guess; many of us now in Congress feel that the Federal Government should turn over more control to the local level, and I think that this is a philosophy that we are carrying out.

I think that you know, and being your group, your community, better what you want your community to look like than somebody who may be 3,000 miles away who has never been there. So I think that probably our philosophy is different there. I don't object to your objection, but I think that we would like to see more local control and more input from the local people. And I think that is what we are trying to do under this bill. Mr. Hughes.

Mr. HUGHES. Just on page 85, on the representation of interests on grazing advisory councils—I am presently carried as affected interest on 58 allotments in the California desert. This wording would exclude me.

Mr. COOLEY. Why would it exclude you? You are not part of the county, social and economic interest?

Mr. HUGHES. Represents permittees, leasees, affected land holders, county, social and economic interests, and elected State and county officials. I am an elected official in a different county.

Mr. COOLEY. But you have members that have your same views within that county; do you not?

Mr. HUGHES. I said it would exclude me.

Mr. COOLEY. Oh, maybe you personally, yes.

Mr. HUGHES. Yes.

Mr. COOLEY. Yes, it probably would, if you are not in that county, that is correct.

Mrs. Chenoweth, would you care to ask a few questions?

Mrs. CHENOWETH. Thank you, Mr. Chairman.

You know, I first wanted to speak with Mr. Green with regard to the NEPA process. Knowing that the permit goes with the place, and the judgment that is made about the permit is how many AUMs for how long on what part of ground are we going to operate. So the permit goes with the place. And so to make the minor adjustments that need to be made in the decisionmaking process by the Bureau of Land Management or the Forest Service does not constitute a major Federal action requiring an EIS. And I think that is part of what we were trying to get across, that the EIS process is one that is incumbent upon the Agency to perform. And the length of time that it takes and the money expended in human energy is so redundant because decisions were made so long ago and the most important thing is that the Bureau of Land Management—and even Bruce Babbitt's staff will say that the range is in a better condition today than it ever has been.

So I just think that NEPA can work very well for us. I happen to be a proponent of NEPA, oddly enough, because I think that it gives us the opportunity for all of us to sit down on a scientific and biological basis and understand what we are dealing with. But I think that is a different kind of situation.

I wanted to say, Mr. Chairman, that I wish Mr. Brouha were still here because I had some questions to ask him. Mr. Brouha, from

the American Fisheries Society, had to catch an airplane. He is executive director of the American Fisheries Society out of Maryland.

He mentioned that domestic livestock grazing is permitted on 159 million acres, administered by the BLM; 58 percent of the BLM rangeland is in fair or poor condition; 52 million acres of big game habitat, 100 million acres of small game and nongame habitat, and 19 million acres of sports fishery streams have declined in quality. And, Mr. Chairman, there is not one source to back this statement up, not one iota of documentation from the gentleman from Maryland.

Mr. GREEN. Mr. Chairman, Representative, I can provide you with that documentation. In fact, I have some here. I am not sure if he was quoting from this resource, but I do understand what he was talking about, that we have had major improvements since the 1900's on some of these upper level areas, but several of our riparian areas are still in very poor condition. And we need to address those issues.

Mrs. CHENOWETH. Well, Mr. Green, Mr. Chairman, even the Department of Interior will admit that the vast rangelands are generally improving.

Mr. GREEN. Mr. Chairman, Representative, I wouldn't disagree with that at all.

Mrs. CHENOWETH. Thank you, sir.

Mr. Hughes, you are a member of the California Sierra Club?

Mr. HUGHES. Yes.

Mrs. CHENOWETH. And are you an employee of the Sierra Club?

Mr. HUGHES. I am a volunteer.

Mrs. CHENOWETH. You are a volunteer. And do you give testimony like this often?

Mr. HUGHES. I have testified once before on grazing. I have testified for the California Desert Protection Act, also.

Mrs. CHENOWETH. Here in Washington?

Mr. HUGHES. Yes.

Mrs. CHENOWETH. Did someone help you with your testimony?

Mr. HUGHES. No, I wrote it.

Mrs. CHENOWETH. You wrote it, good. Did they help pay your way here? Since you are——

Mr. HUGHES. I hope I will get reimbursed out of the volunteer funds for the ticket that got me here, but basically the costs are mine.

Mrs. CHENOWETH. But you will be submitting a voucher for reimbursement?

Mr. HUGHES. No, I go out and try to raise the money, get some others to help.

Mrs. CHENOWETH. I hope so. Because in 1992, the Sierra Club took in \$41,716,044. And that is a whole lot more than the National Cattle Association operates on. And that is just a whole heck of a lot more than Mr. Lowry makes. Mr. Lowry said he took in a little over \$8,000 last year. And, you know, I bring this up, sir, because on the one hand I have to applaud your dedication, I really do. And your testimony was very well constructed. However, you were concerned about the economics and people making profits. And I just wanted to remind you of Mr. Lowry's——

Mr. HUGHES. No, I am a volunteer activist. And over the years I have paid lots of my costs to do what I am doing.

Mrs. CHENOWETH. In the organization that in 1992 took in nearly \$42 million, that is just one year.

Thank you, Mr. Chairman.

Mr. COOLEY. Thank you, Mrs. Chenoweth.

I want to thank the panel for their time and patience and our running back and forth to voting, and the panel is excused.

Mr. COOLEY. And the next panel come up, panel number five. Mr. Obermiller, Professor, Oregon State University; Doctor John M. Fowler, Agriculture Economics Department, New Mexico State University; Max Peterson, International Association of Fish and Wildlife Agencies; and Lonnie Williamson, Wildlife Management Institute.

I want to thank all of you gentlemen for your patience. I know it is 5:10 p.m. and most of you have been here since 10 a.m. I hope you had a little lunch. We had peanuts, a cup of coffee. But I really do appreciate you coming here and being willing to testify on this important bill. And I think your testimony will be very valuable in the final consideration. So without any further ado, Doctor Obermiller, I appreciate you starting off.

#### **STATEMENT OF FREDERICK W. OBERMILLER, PROFESSOR, OREGON STATE UNIVERSITY**

Mr. OBERMILLER. Thank you, Mr. Chairman, Congressman Cooley, Congresswoman Chenoweth. It is a pleasure to be here. It is an honor to be here.

I am Fred Obermiller, a professor at Oregon State University. I am going to skip the credentials other than to say that I have done this type of testimony as an academic specialist 9 or 10 times before. I am going to start by deviating from my written testimony. I hope it appears in its entirety in the record. I want to respond to some points that have been raised earlier.

Before I do that, I want to quote from and expand on the news release issued by Franklin D. Roosevelt June 28th, 1934. "The Federal Government by enacting this law has taken a great forward step in the interest of conservation, which will prove of great benefit not only to those engaged in the livestock industry, but also to the Nation as a whole." And he was of course referring to the Taylor Grazing Act.

I think in large part the Taylor Grazing Act succeeded beyond the wildest expectations of those who supported it and certainly shocked those who did not support it. Unfortunately, as time goes by, people tend to forget, and now we have reached the point where we have to reconfirm the statutory commitments made during the Great Depression of the United States to again bring stability to the public domain western livestock industry and associated communities. That was the purpose of the Taylor Grazing Act. Its policy objective, and I quote, is "to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range".

History repeats itself. That preamble is essentially replicated in section 103 of the Livestock Grazing Act of 1995, which in my opin-

ion is a reconfirmation of the Taylor Grazing Act of 1934, and will again accomplish the objectives that Franklin Delano Roosevelt set forth in his press release 61 years ago.

I do want to say a few things about the nature of grazing permits and leases as established under the Taylor Grazing Act and also as reflected in the administration of Forest Service grazing permits.

We have both permits and leases. They are either rights or they are privileges, depending upon the perspective of the person or the lawyer in question. They are tied to the specific use of identified parcels of Federal land at certain times of the year under certain terms and conditions. They require the ownership of commensurate base property, either land or water, the purpose of which is to ensure stability and to confirm customary and traditional patterns of private/public land use for grazing purposes.

The reason that this was done in 1934 and by the Forest Service 30 years earlier was to assure that the structure of the industry, as it evolved over time under trappings that closely resemble the prior appropriations doctrine in water law, that those patterns be preserved for the purpose of stability.

The Taylor Grazing Act was a great success, but the original administering agency was a great failure. That agency was called the Grazing Service. It grew prolifically in budget and in personnel. It came under increasing protest by the ranching community in the western United States; litigation grew by leaps and bounds. It was criticized on the Floor of both the U.S. House of Representatives and the Senate as "arrogant, dishonest and spendthrift".

In 1946, the appropriations were reduced by one half. The director was relieved of his duties. Over two-thirds of the staff was laid off and the BLM was recreated from the ashes of the Grazing Service. I am a firm believer in lessons of history, and I think we had best not forget that one.

Now, turning to some points that have been raised here earlier. The Administration repeats that the new regs in the form of Rangeland Reform '94 would affect only bad apples. They are not after the good operators, just the bad apples.

I don't agree with that at all. I believe that Rangeland Reform '94 is top-down regulation of an embattled industry for primary purposes which do not include the promotion of domestic livestock grazing. Grazing is viewed merely as a means to an end, vegetation manipulation and enhanced environmental quality. So I don't agree that the purpose of Rangeland Reform '94 is just to get rid of bad apples.

Second, the Administration said this morning that Rangeland Reform '94 would promote a healthy livestock economy with virtually no adverse economic impact. That is not true. The final environmental impact statement states that livestock AUMs will be reduced by 20 percent under Rangeland Reform '94. That is not a marginal impact. That is a major impact, particularly when there are no alternative sources of forage available; and that impact does not even consider any increased livestock costs associated with compliance with the new regulations.

Others have said today that the livestock advisory councils would be setting range management objectives. That is not true. The

Livestock Grazing Act says that they will set range improvement project objectives; and range improvements are defined in the definition section of the bill precisely as they are defined in the glossary of the Society of Range Management which includes structural and nonstructural improvements and not management practices.

Another comment, as an economist, deals with this argument that only commodity uses of the public land should be forced to pay a fee because only those items which generate a profit should be charged. Economists can't buy that.

We treat profit the same as utility. Everybody tries to maximize their own satisfaction or welfare. It might be in the form of profit or it might be in the form of enjoyment. It might be monetary or it might be nonmonetary, but they are both valued. And the BLM, in their publication "Public Land Statistics", reports net economic values per day of deer hunting of \$60; elk hunting, \$70; small game hunting, \$30; migratory waterfowl, \$50. These are all highly valued activities. But they are free, not priced, even though the underlying law states all uses of Federal resources generating special benefits to defined parties, according to the Office of Management and Budget, should be priced but these are not. I don't buy the argument for a moment that only the commodity uses should be priced. It is wrong.

One other thing, there has been a lot of talk about—and I appreciate the fact that I am allowed to go over my time limit—there has been a lot of talk about how an extensive public hearing process was conducted and these considerations were taken into account in developing the Rangeland Reform '94 rules and regulations. I attended and commented at two of those hearings, and in both hearings 90 to 100 percent of the public comment was in opposition to Rangeland Reform '94.

I know many of you have read this, but I am going to read it anyway for the record once more, because I think it is revealing. The publication date is June 23rd, 1993, two months before the initial draft regulations were published. This is a memo from Kevin Sweeney of the Department of the Interior Secretary Babbitt and to BLM director Jim Baca.

"Item two, we need to sell these regs in advance." (This is two months before the initial regulations were released.)

"We have not yet done enough to sell the public and the media on what will be coming out in the regs. We should work to identify what is in the regs before they actually come out. There are two major changes which will come out in the regulations, and we should construct a few events"—(construct a few events!) that help to justify those changes.

For example, riparian protection: "We should have one or two field trips to focus on riparian zone protection. Our own statistics can be used to show the range is in better shape than at any point in this century. With that in mind, we must make deliberative and public attempts to prove how bad the conditions are in many riparian areas." If that is good science, I am not a scientist.

Thank you.

Mr. COOLEY. Thank you, Mr. Obermiller. I appreciate your comments, and we will get into questions and answers later.

[The prepared statement of Mr. Obermiller can be found at the end of the hearing.]

Mr. COOLEY. Dr. Fowler.

# **STATEMENT OF JOHN M. FOWLER, AGRICULTURE ECONOMICS DEPARTMENT**

Mr. FOWLER. Mr. Chairman, distinguished committee members, I greatly appreciate the opportunity to be here.

We have heard many references today about the Taylor Grazing Act. There were several key ingredients to the Taylor Grazing Act that made it successful. They were assigned responsibility, skillfully crafted incentive packages, peer review, and defined agency responsibility.

Permittees were recognized as key players in the Taylor Grazing Act. Historically, Federal and private partnerships were actively pursued. They were jointly funded and the benefits were disbursed in mutually agreed-upon patterns.

I provided for you a figure in the presentation that shows the private land contributions and investments in the Federal lands that peaked in 1985, and it has forebodingly declined for a decade. That demonstrates explicitly that the partnership is not continuing.

We need that partnership, Mr. Chairman; we need the trust that we used to have in agency's responsibility. And what is a cornerstone and key to the future is responsible production.

Necessary for responsible production are longer tenure of these permits, ownership of improvements on a percentage basis to the dollars afforded, recognition of long-term caring capacity where temporary adjustments—temporary, nonrenewable increases, as well as decreases—can be made for resource enhancement.

We need accelerated on-the-ground monitoring in the trenches, on the ground; and we also need the livestock industry to police its own ranks. These are all essential for the future.

I would like to concentrate the rest of my time on the grazing fee itself. Mr. Chairman, there is no perfect fee. Any fee we come up with will overcharge some and undercharge others. And the third given is that private lands are not directly comparable to Federal lands in computing and determining a fair market value for Federal forage.

We look to the Taylor Grazing Act and we see value-laden terms such as "reasonable". PRIA refers to equitability "to prevent economic disruption and harm to the western livestock industry"; FLPMA, "equitable to the United States and to the permittee". Both refer to "costs of production" as critical elements in the determination. These value-laden terms do not lead themselves well to theories of economic efficiency, so I do not believe we are in charge here of maximizing net present value to the government, or eliminating all consumer surplus in the purchase of the permit.

This is a much wider array for our fee formula to be fair.

PRIA, the old formula, mentioned costs of production, ability to pay. The orientation was consistent with sound economics and sound business where they got down to the net values. I would like to encourage you to look at the Economic Research Service's publications for the last 21 years and see that the net return has been

negative all 21 years. You know, it is very easy to see why young people and capital are not being attracted into this industry. We go to a different bottom line and just cover the cash costs, and even 12 of the last 21 years, it was negative.

I want to go one step further and say that it is not rational to say that the grazing fee should be negative. It should not be a residual factor, but it would lead us to believe that the net should not be the basis for the fee. Now, there is economic precedence for the concept of using our final value product as a derived demand for the value of the factor and that is called the derived demand. The formula that has been presented in the Livestock Grazing Act for 1995 uses this concept of a derived demand.

It also uses the concept of net turnoff. It recognizes the cow is the production factory; all the other classes of livestock are ancillary, strictly part of that cow production. That is a reasonable approach. The formula as presented has some very interesting little formats; it is very simple to compute, divided by 12 regardless of time during the year and you come up with a return per month. Multiply that times a factor of 0.06 and you come up with a fair rate of return for the factor of production, i.e. Federal forage.

Is there a basis for this? Absolutely yes, Mr. Chairman. The Economic Research Service used exactly the six-month T-bills in an effort to justify the 0.06. That is exactly the same that the ERS uses. Six-month T-bills are also what the Federal Government is paying for their capital. That rate happens to be a 10-year average of 5.9.

The discount rate, what the Federal Government is earning on their capital, 10-year average is 5.51. This rate is in line, Mr. Chairman, with those figures.

Very quickly, there are some strengths of this formula. It is a three-year average that keeps it current. It is not nearly as volatile as a one-year change. It is simple and it is based on market value. In contrast to what we heard in some of the earlier testimony, it is based on the gross value receipts on the cow, and it is published by an independent Federal agency.

There are some weaknesses. The major weakness is that the data have lagged nearly three years. We can correct that very readily; the data exists. Will I also be given an extra minute?

Mr. COOLEY. Yes.

Mr. FOWLER. The key to the enhanced performance of the grazing fee formula, as we see it, is capturing the current price trends and recognizing that the greatest variability that we are having in the receipt side is the price, not the livestock classes being shown. That lets us concentrate on only one factor of formula, the price.

The National Ag Statistical Service collects that data currently. On February of each year, February of 1995, that data is available for the Economic Research Service to make their calculations. I would strongly suggest that we allow the Economic Research Service to forecast November and December of the previous year to allow us 34 months of actual price data and two years of forecast data so we can use 1993, 1994, and 1995 in the calculation of the 1996 grazing fee. It doesn't take any new data; it is the same data that is used in the beef cattle price index as collected by NASS and evaluated by the Economic Research Service. This is very doable.

I would like to summarize and be very succinct. The Livestock Grazing Act of 1995 is a comprehensive package of incentives to promote long-term resource stewardship and continued improvement of our Federal range conditions. The grazing fee approach is a gross receipts tax approach, and it is defensible and it has precedence.

The 6-percent rate of return reflects a fair return to the factor of production as evidenced by both the Federal earnings and the rate paid for borrowed capital. The impact of the Treasury will be positive because of the increase in grazing fees and only the most heavily federally dependent, highly leveraged operator will be forced out of business.

Thank you very much, Mr. Chairman, for your time.

[The prepared statement of Mr. Fowler can be found at the end of the hearing.]

Mr. COOLEY. Thank you, Dr. Fowler. I appreciate your comments, and of course, I am very pleased that you support the formula. We have had a lot of criticism on that.

We feel, as you do, that it is defensible, and we have always turned to those who are critics and said, show us something better. We have had only criticism, and no real positive, different formulations when we go through the process, the same as you did, with the tax rates and different discount rates and how we put the formula together. So I appreciate your observation of that very much.

Mr. Peterson.

#### **STATEMENT OF MAX PETERSON, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES**

Mr. PETERSON. Thank you, Mr. Chairman. You have my testimony. If you will accept it for the record, I will try to brief it in the interests of time.

Mr. Chairman, I testify today on behalf of the International Association of Fish and Wildlife Agencies, which is not a new organization. It was created in 1902 in the western part of the United States to enhance cooperation between State fish and wildlife agencies. At that time, there were market hunters or poachers that were moving across State lines and were thereby immune from prosecution.

Since that time, we have worked on a variety of things involving fish and wildlife, including the 1937 Pittman-Robinson Act, which was referred to earlier, where hunters and fishermen help pay, through excise taxes, for fish and wildlife restoration on all kinds of lands; and the Wellop-Breaux Program, which does likewise for spot fish restoration.

Mr. Chairman, I was somewhat reluctant to testify on this bill because I understand the motivation of those trying to write this bill. I also understand your objective of trying to provide more stability for grazing permittees. Unfortunately, I believe, though, that this bill will repolarize a lot of the issues that we have had over the last 10 years or so between different users of public lands.

As Chairman Hansen indicated, I am a former Chief of the Forest Service. I spent a lot of time trying to get different users of public land to work together to share that public land, as it belongs to all of us. And I think there has been a lot of progress made over



the years. In fact, one of the things that I have done in my current job is to look at how we can bring different competing interests to the table to cooperate.

For example, along with Lonnie Williamson of the Wildlife Management Institute here to my left, we brought together livestock and wildlife interests to seek common ground. This included a livestock-big game symposium of actual on-the-ground people who are out there working the land to address how we can work better together. That went along pretty well. As Mrs. Chenoweth has indicated, when you get people out there on the ground who are looking at the same piece of land and can see the same thing, you find that a lot of the animosity that may be there in theory sort of disappears. And I think we made substantial progress.

I am concerned, though, that this bill, in my view, and I may be one of the few people around long enough to have actually been here when the Multiple Use Act was passed and have some history of that act, I think this act does substantially move livestock to a rather dominant position in multiple use. And I don't think that you intended to do that, but I think it does because it addresses only grazing and not the mix of multiple uses, and it places the permittee in a rather dominant position.

For example, we discussed a few minutes ago the grazing advisory boards. By the law itself, grazing permittees must be a majority on the grazing advisory committee. I think also by singling out the carrying capacity of the range as the number of livestock that can be grazed ignores a lot of other critters out there besides livestock. The carrying capacity of the range must account for other critters that are out there—different kinds of wildlife, fish in the stream and so on. You can't say that the carrying capacity is the maximum number of livestock that can be grazed without permanent deterioration.

So throughout the bill, I read it as primarily a bill that elevates livestock grazing above other uses. That is the only way I can read it; I have to be honest with you. I think in doing so, the bill is going to repolarize the debate that is out there.

You remember the slogan "cattle free in ninety-three", and all those other things that were really detrimental to improved understanding of each other out there on the range. I think this bill has the potential of doing that, too. I think we can work with you on making some changes with it that maybe would reduce that, but as written now, I believe the bill does in fact elevate grazing use above all the other uses.

I think we ought not to pat ourselves on the back that those grazing lands are in better shape than they were. Brouha was actually quoting a General Accounting Office study, which is attached to his statement, which says a substantial part of the riparian area of the ranges is in poor condition. Even though the range itself may be in good condition, that may not apply to riparian areas on the same range.

As a person who grew up with livestock and spent a lot of time in land management, I know that 95 percent of a range can be in good condition but the 5 percent that may represent the most important riparian areas may be in deplorable condition; if you took people out there and looked at the range, they would all agree that

is a factual statement. So I think we have got to be careful in using those statistics to sort of pat ourselves on the back.

There are also some real problems in the bill. Look at section 121 and section 136, section 121 says, an allotment management plan will have all kinds of requirements in it, it will specify grazing practices and all kinds of management direction. When you come over to section 136 of what can be put in the permit, can't put any of that direction in the allotment management plan in the permit itself.

So the question is, how do you enforce the provisions in the allotment management plan, which is not an enforceable document? How do you enforce plan requirements if you are prohibited from putting them in a permit?

I don't really think you meant to do that, but that is structurally the way I read the bill right now. It says you cannot put anything in the permit except the number of livestock, period of use, and a couple of other things. You can't put anything else in the permit.

For example, if there is agreement in the plan that a certain part of an allotment should not be grazed during a certain part of the year and the cattle should be moved during a certain part of the year, that cannot be reflected in the permit. I don't really know why the bill says that.

I am not going to get into grazing fees because I spent a good part of my life worrying about grazing fees and realize there is no perfect fee, as has been indicated here. I do gratuitously say to you, I think all users of public land ought to pay. I don't think it should be just economic interests, because there is a lot of value to all kinds of people for the use of public lands.

Thank you, Mr. Chairman. I hit my testimony rather lightly. I hope that summary is useful to you.

Mr. COOLEY. Thank you very much, sir.

[The prepared statement of Mr. Peterson can be found at the end of the hearing.]

Mr. COOLEY. Mr. Williamson.

#### STATEMENT OF LONNIE L. WILLIAMSON, WILDLIFE MANAGEMENT INSTITUTE

Mr. WILLIAMSON. Thank you, Mr. Chairman.

If the Chair pleases, I was given a statement by Dr. James Earl Kennamer, who is the Vice President of the National Wild Turkey Federation. He asked if I would request that the committee enter it into the record. I will do that at this time for the committee's pleasure.

Mr. COOLEY. Thank you very much. It will be placed in the record.

[The statement of Mr. Kennamer can be found at the end of the hearing.]

Mr. WILLIAMSON. I am Lonnie L. Williamson, Vice President of the Wildlife Management Institute, which is headquartered here in Washington. We were established in 1911, and the organization is staffed by trained and experienced wildlife managers and scientists located across the country.

We agree, Mr. Chairman, with some of the findings in this bill. We have agreed for decades that we have a vast interest in main-

taining a healthy livestock industry on our public lands. Our interests are tied together in many, many ways, one being that the private lands that these operators own and use for ranching purposes are vital for some of the wildlife that inhabit variously the private and public lands. In the West, we cannot afford, if we are going to maintain viable populations of a lot of our wildlife, to let these ranches go into developments or other kinds of uses that are not compatible with wildlife.

On the other hand, we view this bill, simply because it appears to disenfranchise us from having a say-so in what is going on on the Federal rangelands, to be very divisive, to be something that will drive a wedge between the livestock and the wildlife conservation interests and hurt some of the great progress that we have made in the past 20 or 25 years in solving the problems out there on those lands in an equitable manner that will maintain the livestock industry and at the same time help wildlife to a great degree.

I would like to point out that the economic interests of, the livelihoods of a lot more people than just livestock people depend upon those public lands. The industry that supports my organization and has for the past 84 years, gets more than 80 percent of its business from hunting provided by healthy wildlife populations, which makes the Federal lands, as well as other State lands, very, very important to it. It is a big business nationwide.

I would say that instead of pursuing H.R. 1713, Mr. Chairman, that the committee should seriously consider taking a strong lead in supporting, pushing, encouraging, promoting what Max just referred to as the "seeking common ground" effort that has been going on for quite some time now in the U.S. Forest Service and Bureau of Land Management and supported by quite a few agricultural, livestock and conservation groups. We are having tremendous success.

I would point to the booklet that is attached to my statement here and show some of the projects that we have completed. This approach, which is a local approach using local people and people from other areas that may be making investments in the project, get together. They figure out what one another needs, how we can get it, what the compromises are going to be; and then everybody chips money into the pot.

Some of the things that have worked out are quite interesting. There is one area in Colorado I believe that is called Owl Mountain. One of the permittees was having a heck of a time with elk raiding his alfalfa; they were doing all kinds of damage. To solve the problem, all it took was a relatively inexpensive air application of fertilizer to the public lands that increased the forage production and the desirability of the forage and kept elk off the private land.

You will notice in here the Upper Muddy Creek Rim Project going on in Wyoming covers 290,000 acres, mostly private land.

Everything that needs to be there for wildlife—the land, the water—and livestock is being done in a cooperative manner and there is absolutely no reduction in AUMs on any of the public lands involved, none whatsoever.

And so, Mr. Chairman, I would hope that instead of frightening us with not being able to play in this arena, as we should, as people who use public lands and get our living from public lands, that

the committee would look at promoting and somehow helping grow the Seeking Common Ground program. I don't think you would find anyone in the livestock industry that would speak against it that has had experience with it. There is a lot of success there.

Thank you very much.

Mr. COOLEY. Thank you, Mr. Williamson.

[The prepared statement of Mr. Williamson can be found at the end of the hearing.]

Mr. COOLEY. Mr. Obermiller, of course, I have known about your expertise for many, many years and appreciate your wisdom and the knowledge you have put forth in this whole effort. We in the West admire you very much and respect your opinion very deeply; I will tell you that right now. Even though we don't always agree, we really still respect it; and a lot of people admire your stance on many issues.

I want to know if you think there is any justification for the BLM or Forest Service statement that the riparian areas are in such horrible condition through your experience and your expertise of traveling over the western United States and consulting with many of the grazing people.

Mr. OBERMILLER. I think there is very little justification. I think reliance on the General Accounting Office report as your basic data source is—well, it certainly wouldn't be publishable in an academic journal. Outside of that, there are isolated cases of overgrazing in the riparian areas—but you know, you have to put it in perspective.

Twenty years ago riparian areas were called sacrifice zones, and they were all beat up; they are no longer called sacrifice zones and they are no longer all beat up and most of the ranchers that I know are making a very aggressive effort to regrow and rebuild and rejuvenate their riparian zones, and they are doing so successfully. And I am personally involved in several research projects along those lines, and I can testify here to the fact that they are successful in those regards.

I, as a scientist, don't think that it is appropriate for Congress to make decisions based on nondocumentable nonevidence, and I think much of what has been given to you with regard to the deplorable state of riparian zones is, in fact, nonscientific.

Mr. COOLEY. Thank you very much. You have had an opportunity and participated in some of the writing of this particular piece of legislation where we have made some amendments in our early stages from some of your comments. We keep hearing from everybody that these predominantly public lands would fall under the grazing use of public lands under this document.

Do you really feel, as an expert in this area, that maybe sometimes on the other side of the issue that is actually predominantly going to take public lands into grazing?

Mr. OBERMILLER. Absolutely not. As I was trying to indicate in my written testimony, I see the Livestock Grazing Act as an attempt to establish a framework within which grazing will occur and will be regulated.

It is a Livestock Grazing Act. It does nothing to repeal or amend the Multiple-Use Sustained Yield Act or the Federal Land Policy and Management Act or those portions of the Public Rangeland Im-

provement Act that are still in effect, or NEPA or the Endangered Species Act or the Clean Air Act or the Clean Water Act or any other acts that assure the multiple uses of public lands. I think the declarations to the contrary at best are misleading.

Mr. COOLEY. Thank you.

Mr. Fowler, number one is, I really want to thank you, as well as the rest of the people on the panel, but as being a cow-calf operator myself, I know what you gave up to come here. I do appreciate that branding is a difficult process. I know what you did when you came here, and I do appreciate it; and I think that other people appreciate your comments and testimony.

Let me ask you something. Since you addressed the grazing fees so extensively in your presentation, do you think the 6 percent seems to be too high since Congress is debating a 3-percent return on Federal Government for those who are mining on Federal lands? I think it is serious since we are in this economic discussion here.

Mr. FOWLER. I have considered the 3-percent rate and felt there was a distinct difference in the equity required and capital of two different industries, and as I compared and went through the different alternatives, that a risk-free rate of return of 6 percent was well within the limit of the fair market value. And I believe that the 3 percent with that much higher equity is a totally different ball game, Mr. Chairman.

Mr. COOLEY. Thank you.

What about the alleged allegation, by some in writing, at least, we have heard that grazing fees, low grazing fees lead to overgrazing and overuse of the land? As a user of allotments or permits, do you think this really is valid criticism of this?

Mr. FOWLER. Well, I think it has raised itself as one of the greatest fallacies known to man. There is absolutely no connection between grazing fees and current long-range carrying capacity. Those are set administratively. Those are based on resource conditions and the grazing fee has absolutely no correlation.

Mr. COOLEY. Thank you.

Since there are only two of us, I am going to override my time with your permission, Congresswoman, and we will let you do the same. I want to get two more questions out, and then I will go on.

Mr. Peterson, we all respect your expertise and your long service to the public as the Chief of the U.S. Forest Service; and I think that we all admire you for all the work you have done.

What I think we should look at here—as you look at House bill H.R. 1713, why did we introduce House bill H.R. 1713? We introduced it because the Secretary of Interior decided to introduce the Range Reform bill of 1994. Now, if everything was—how shall we say—perfectly equal and nobody was having any problems and there was cooperation between the grazers, multiple use people and the agencies, then why did the Secretary feel compelled to introduce his legislation, which truly prompted the LGA because of the necessity to counteract what most people, in the West anyway, felt was legislation that, let's say, was more restrictive, less cooperative, less inducive to cooperation between permittees and the agencies?

I mean, can you give me some insight on that since you have long experience in this area?

Mr. PETERSON. Mr. Chairman, I am not an author of that reform proposal.

Mr. COOLEY. No, I am sorry, I didn't mean to imply you were. But I imagine you are aware of that legislation as well as this.

Mr. PETERSON. Oh, yes. In fact, I had some serious problems with some of it because I think it did shift the focus, maybe inadvertently, in some cases away from what Mr. Williamson and I both consider the most important thing, and that is to get people out there on the land cooperating. And I think, inadvertently maybe, some of those reform provisions did the opposite.

The concern I have though is, if the bill will set some other forces in place in the other direction that may be just as serious to handle.

Let me also beg to differ with some of my colleagues here. This bill does change current law. Make no mistake about it. For example, it specifically said, NEPA doesn't apply to certain activities. It defines the livestock-carrying capacity to be just the number of livestock on an area that can be sustained. It also sets up grazing advisory committees and that says the majority must be permittees. That and other provisions make a whole lot of changes to existing law.

Although I respect the members of this panel who have scientific capability, when they say this doesn't change existing law, that simply is not true. It does change existing law substantially, and any attorney will tell you that it does change existing law.

So my concern, Mr. Chairman, is that I think we were making some good progress in bringing people together, particularly the wildlife and livestock areas, in really working together on how they could improve the range for the benefit of everybody. The permittee, more than anyone else, really is the person that wants that range to be in good condition. He wants help in causing that to happen, and we would like to help that process.

I am afraid that this bill, as now written, does not help that process. In fact, I think it is counterproductive in some respects.

Mr. Chairman, I would certainly be glad to pledge to you my willingness to work with you and others to see if we can fix some of the things that I think are a problem; and I am very serious about that.

Mr. COOLEY. I understand that, and I appreciate your concern. But given the circumstances that we face today, I think you can understand why this all came about and why we have so much time and effort trying to—we think we are trying to write it up to the center, and of course, there is a difference in here and we understand that.

Mr. PETERSON. Maybe we should just say, time out for a while.

Mr. COOLEY. You should talk to the Secretary of the Interior on that. We appreciate that. Because, as you know, we are in a glide path now that is running to a time line that we just have no breathing room.

Mr. PETERSON. I think that is unfortunate, really.

Mr. COOLEY. I think so, too.

This really is, as you know, only a grazing bill, so when you say it forces the grazers, that is true; it does when you read "to provide for uniform management of livestock grazing on Federal lands and

for other purposes". We are not circumventing anything else, only public lands, but this is to be directed at grazing, and so when you read it and you say that this looks like it is only grazing, basically it is grazing, but with the stipulation in there that we realize that there are other uses involved in it.

And I know your comment, you feel that we have taken away the right of certain individuals to overgraze without any input by the Administration. If you check page 31, section 114(d)(1), you can see in there the Decrease in Authorized Grazing Use, Temporary Suspension. So I think if you read that with your comment and you match those two together, we have made provisions in here which the Administration can enforce which will circumvent your concerns.

See, there is adequate control by the Administration for permittees, and so I think that that one comment that you made—we have covered that section—I would appreciate maybe if we could correspond, or by phone or whatever, if you would take a look at that and see if you find something in that section that you do not feel covers your concerns, because I think it does, and I think it will help you.

Mr. PETERSON. I did look at that section. It is restricted though to drought, fire or other natural events, or maintenance or modifications of range improvements.

Mr. COOLEY. But does that mean overgrazing, installation of maintenance modification of range improvements? That is so encompassing, in fact, we might have made it too broad and gave the agencies too much latitude.

Mr. PETERSON. My concern, if you read the next part of the bill, it says you have got to have all kind of data that have been developed.

Mr. COOLEY. Shouldn't we be managing by science and not by the seat of our pants? I guess that is a term that we should not use, but we should look at this.

Mr. PETERSON. I am all for good science, but I can walk out—and you can, too—on a range allotment with a permittee and other people; and generally you can reach agreement that this range is either in good condition or is not in good condition. And you look back at what the situation was five years before, and you can determine what the trend has been, whether it is improving or not.

Now, whether you have got scientific data that has been peer reviewed on that range is another question. That is a very expensive process to have scientific, peer-reviewed data on that specific allotment.

Mr. COOLEY. I don't think we state that.

Mr. PETERSON. OK. But what I am saying is, you have got to have judgment somewhere in the process. And that judgment has to be applied to hundreds of situations out there. The bill is very data-driven in terms of requiring data and saying, if you have got to make an adjustment, it has got to be made over a five-year period of time unless the permittee happens to agree.

Mr. COOLEY. OK, well, the thing is, Mr. Peterson, what I think that we are trying to accomplish in this respect is that—I am going to speak on the positive side.

Mr. PETERSON. Sure.

Mr. COOLEY [continuing]. As a cow-calf operator and one who has had permits in the past—I do not have any presently—I was very careful about making sure that the rangeland which I had a permit under was in good shape. I wanted to come back there next year. I wanted to be able to utilize the land.

If I am not a good steward of the land, I degrade it to a point—to where, the next season, it is not there—now, I know I am not going to try to say that everybody might look at this the same way, but I think that the majority, the great, vast majority looks at the Federal lands in the same way. We allocate how much feed we are going to need for our livestock. We look at range and the conditions, and we say to ourselves, if we are not good stewards, when we come back next year, it is not going to be here. So sometimes we have a tendency to be even more cautious than the people who are administering the land.

But what I am saying is, when you have confrontation, when you maybe have a person on the agency's side that may be over-cautious, it gives the opportunity for the permittee to at least have some recourse in the decisionmaking process, whereas, right now, we have no recourse.

Mr. PETERSON. I agree with you. I agree with everything you said. In fact, I think the majority of permittees, in my experience, are just like you; they want to do their job. They are willing to do a good job, and the question is, what do you do with that small percentage that give grazing a bad name because they are not good operators.

I think this bill erects a whole lot of problems in dealing with a problem permittee. And I am not sure—I think that is really counterproductive to the livestock industry. Because the livestock industry, as I think Dr. Fowler says here, needs, to themselves, apply peer pressure and other things to get that poor operator to straighten up.

Mr. COOLEY. Right. That is why we put those local committees in there.

Mr. PETERSON. I am all for that kind of involvement of those boards. But I think it would make those groups even more creditable if there were some nonlivestock interests sitting on those boards and involved in that effort.

Mr. COOLEY. Well, that is why we put in there, social and State-elected officials.

Mr. PETERSON. Let me point out the word "elected" may be a problem there. You see, in many States, by the constitution of that State, wildlife, for example, is handled by a commission. They are not elected; they are appointed. So that says nobody can sit on that—only the governor in some States is an elected official—or someone at the county level.

So these are the kinds of things, Mr. Chairman, that we would like to work with you on to make this—I guess, get broader support for some of the things you are trying to do. But using the word "elected" there, I think is a problem.

Mr. COOLEY. It says "elected State and county officers" on the grazing advisory council, but on the advisory council, it says the same thing, and public at large. So I think on one of them, we have covered it; maybe on the other, it should be looked at.



Mr. PETERSON. On the one, you said public at large; on the other you restrict it to elected officials. I would like to point out that that grazing advisory group makes all kinds of advisory opinions on a lot more than just range improvement.

It also says management practices. I think you get more credibility with the good work that is going on out there if you have some other people that are participating in the process that are more credible to the public at large.

For example, I can tell you for a fact, and not to brag on my neighbor, Lonnie Williamson, when he comes and speaks to a group and says, I have been out there on those ranges and I have looked at them and these people are doing a good job. That means a lot more than if a permittee says that, because he is considered detached enough to be more objective. Or if somebody from a university says it.

I think we need to build in credibility in this process so it doesn't look like the range is being managed by and for permittees, alone.

Thank you, Mr. Chairman.

Mr. COOLEY. Thank you.

Mr. Williamson, I mentioned this before, and I would just retalk about it. The reason for this legislation is that we really have a problem now, and we have a problem between those who are not involved in the process and those who are on the land; and that is what has actually increased this friction or this confrontation that we are going through.

You know, we in the West talk about the war in the West. I think that sometimes that describes what is happening out there. We have a problem now; we need to correct that problem. We think H.R. 1713 is going to help us correct that problem. And hopefully this will help.

It would be nice if we had agencies, that represent the Administration, or personnel that were evenhanded across the board; and we find that we hear all the time about stories of uneven-handedness by agencies toward permittees, and I imagine you hear the other side of this issue as well.

What we try to do in this legislation is to bring back, as it says in the first thing, uniform management across the country, especially on the public lands sector involved in the grazing on these lands. And we hope that people on the other side of the issue will take a look at this and see the good things involved in this process, and point out probably some of the things that you are not too happy with.

But I think that overall you look at this legislation and we have very, very diligently tried to attempt to look at all sides of the issue so we could come to some common ground to the benefit of all.

So the criticism here about splitting this wider, I am not sure it could be any wider than we have today and hopefully this will bring us back to some kind of neutral ground where we have a uniform management system for the West on public lands; and that was the attempt that we are trying to do with this and it was accelerated, of course, by the recent announcement of the enforcement of the Rangeland Reform Act of 1994. So I hope your group appreciates what is going on here and has some empathy for our problems as well.

Thank you, gentlemen. Mrs. Chenoweth.

Mrs. CHENOWETH. Thank you, Mr. Chairman.

Mr. Peterson, because of my respect for you, and because you made the comment that Mr. Brouha's statement contained a GAO report that backed up—

Mr. PETERSON. I believe so; in a document that is attached to his statement, he referred to a 1988 GAO report. I am just guessing that is where his numbers came from.

Mrs. CHENOWETH. I just wanted you to know that what is attached to his report is an article out of a fisheries magazine that is authored by a Carl Armor, who is an aquatic ecologist at the U.S. National Biology Survey at Fort Collins and who is an aquatic ecologist of the U.S. Forest Service, and Wayne Elmore is a national riparian field manager for the Bureau of Land Management. So I just wanted that in the record.

I do not find here any GAO report.

Mr. PETERSON. Look over at the last page on the list of citations. On the last column, there on the right, it says, "U.S. GAO 1988 Public Rangeland, Some Riparian Areas Restored" but widespread improvement is slow. I happen to be familiar with that report. I don't agree with all of it. It is not peer reviewed.

Mrs. CHENOWETH. Mr. Peterson, that is what he drew upon, these three authors, to write this article that appeared in Fisheries Magazine, so it is not a GAO report; it is an article that appeared in Fisheries Magazine. The GAO report is one of fifteen references.

Mr. PETERSON. You were just wondering where he got some of the percentages from, and the only place I know he could get the percentages from probably was that GAO report. The only one that I know of; I am just trying to help you understand where he may have gotten those numbers.

I was Chief of the Forest Service up until 1987, and I didn't always agree with GAO reports either; but I think that one did attempt, as best they could, to categorize the rangelands as good, fair, poor and so on, based on data from the field, from Forest Service and BLM people who gave that kind of an evaluation, and also from some other studies. And whether those numbers are right or not, I don't know.

I was trying to help you understand, I think that is where he got the numbers.

Mrs. CHENOWETH. Thank you, and I do want to say that, in all sincerity, I wish we had more timber sales going out like we did when you were head of the Forest Service. I wish the state of our forest was in the condition. It has been deteriorating for quite a while, but the Forest Service is under test now by the Congress and I am sure that you are almost glad you are not chief any longer.

I do want to say that in paragraph 4 of your testimony—you didn't testify to this, but you referred to it again, and I think it is an incredibly important point—and you said, while the habitat on the public grazing lands is managed by the BLM or the U.S. Forest Service, under multiple use laws, the States retain the responsibility for ensuring proper conservation stewardship of the fish and wildlife resources on those lands.

And I think, hallelujah. You are so right, because we jealously guard out in the West the fact that the States own from high-water mark to high-water mark the beds and banks of streams, all streams, and they own the river and the streams and the standing bodies of water unless it is allocated to a permit holder.

Mr. PETERSON. You will be happy to know that I believed that when I was Chief of the Forest Service, also.

Mrs. CHENOWETH. I hope you still do.

Mr. PETERSON. I tried to practice that then, and I believe it now.

Mrs. CHENOWETH. And so in putting together the partnerships, I appreciate your calling the attention of this committee to the fact that it is the States that retain the responsibility; even in Idaho, it is a constitutional thing.

It is a constitutional responsibility they maintain the responsibility for the fish and the wildlife. And my hat is off to you; I thank you for saying that.

I do want to also brag a little bit about our ranchers over the last eight years. We have been going through an incredible drought out there in the West, and yet, as Mr. Obermiller stated, in the report that he gave out of Mr. Baka's report, that the state of the rangeland is continuing to improve, and I want to also say that when it comes to honest people, honest talk, straight thinking, I really feel I can ask my cattlemen and get a good straight answer.

Mr. PETERSON. I think that is true. I would like to, as I said earlier, call a time out on the whole business and say, look, we are making some progress out there, why don't you leave things alone, let us make some progress, and maybe Congress turn their attention to something else; maybe the Administration, too.

Mrs. CHENOWETH. I would love it if you could use your great influence to persuade Mr. Babbitt of that, because, as Mr. Cooley said, that is what precipitated—this is the only answer we could come up with.

Mr. PETERSON. I promise you I will try and see what I can do.

Mrs. CHENOWETH. Would you? OK.

Mr. PETERSON. But I am not a miracle worker.

Mrs. CHENOWETH. Mr. Williamson, I am so impressed with what you are doing out there. This is the first time I have really come across your program. Why don't you have Idaho listed in here? But you have some great organizations that you are working with, and this is what we all like to see.

Mr. WILLIAMSON. It is the only approach. I remember the first time I sat at this table. The occupant of the chair was Mr. Aspinall from Colorado. That is more than 25 years ago. And as I sat here today, I heard the same arguments, the same groups saying the same things. But there is one little difference, the rangeland has gotten a little better.

So we have made some progress, and the way we have done it is not with what has been done here in Washington, per se. I have less than abundant belief that laws are what we need to improve range management or anything else as far as natural resource management is concerned. What you have got to get is trust out there among the various groups.

I don't want my friends in the livestock industry telling me they have a right out there. I don't think they do. I don't have one; they

don't either. That is our land. But I am going to do everything I can to understand what their needs are. I am going to be compromising so that they can keep their land, so that they can make a living, or make more than a living if they want to, and it is to my benefit for them to do that, and I will argue with anyone who wants to throw them off.

Unless we can sit down at the table out there at the local level and trust each other, we are not going to get anything done. We had the Owl Mountain thing, I remember, the ranchers involved, the U.S. Extension Service, the Forest Service, BLM, all of the outside groups involved were very much behind that project; but we couldn't get the local county commission to go along; and so the rancher says, fine, we will do it without you, so long. About a week later the county commission says I think we ought to be involved in this.

But those ranchers had enough confidence in the people that were interested in what was going on on the public land that they used, that they weren't too concerned about their local officials not being involved.

Mrs. CHENOWETH. Well, I am interested in what you are doing, but I do know the 12 most dangerous words today are: "Trust me, I'm from the Federal Government," and "I'm here to help you." So we have a long way to go to build that trust. But I thank you for the efforts that you are doing.

Mr. Chairman, I know I am over my time, but I have one question I want to ask Mr. Obermiller.

Mr. COOLEY. You may have extended time, whatever you would like.

Mrs. CHENOWETH. Thank you.

I understand that you have been involved with this act from the very beginning, and I appreciate all the work that you have done with Mr. Cooley on this act. But you wrote an article for a newspaper called the Capital Press on June 16th of this year, and in that article you stated that there were several areas that needed improvement, which included frivolous and emotion-laden interests from the planning administration and management of public domain livestock grazing.

You further stated that rangeland planning standards and guidelines need to be localized to the maximum possible extent and that the surcharge arrangement for subleases could be improved. The Livestock Grazing Act may give too much power to the BLM and too little room for appeal to permittees. The grazing fee provision of the bill results in a reasonable fee level, although there are questions about the formula.

As the bill stands today, do you believe the concerns you have raised in your article of June 16th have been adequately addressed with the changes that you have seen in Mr. Cooley's version and the Senate version?

Mr. OBERMILLER. Short answer, collectively, the Senate plus Mr. Cooley's, yes.

Mrs. CHENOWETH. Thank you, sir.

Mr. COOLEY. Well, thank you, Mrs. Chenoweth.

Mrs. CHENOWETH. Thank you, Mr. Chairman. That ends my questions.

Mr. COOLEY. I want to thank the panel for its indulgence. It is 6:15 p.m. and you have been here since 10 a.m. I want to compliment each and every one of you for your perseverance, and we really truly appreciate your input. I think we all benefited by your testimony, and I just want to thank you very much, and hopefully we can take a look at this legislation, H.R. 1713, and have cooperation by everybody to see that this will be beneficial to all of concern.

Thank you very much, and this meeting is adjourned.

[Whereupon, at 6:19 p.m., the subcommittee was adjourned, and the following was submitted for the record:]

104TH CONGRESS  
1ST SESSION

# H. R. 1713

To provide for uniform management of livestock grazing on Federal land,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 25, 1995

Mr. COOLEY (for himself, Mr. YOUNG of Alaska, Mr. HANSEN, Mr. ROBERTS, Mr. HERGER, Mr. DOOLITTLE, Mr. STUMP, Mr. CALVERT, Mr. EMERSON, Mr. HAYWORTH, Mr. TAYLOR of North Carolina, Mr. NETHERCUTT, Mr. SHADEGG, Mr. LEWIS of California, Mr. RIGGS, Mr. BUNN of Oregon, Mr. SKEEN, Mr. STOCKMAN, Mr. HUNTER, Mr. BREWSTER, Mrs. CUBIN, Mr. RADANOVICH, Mr. CREMEANS, Mr. CRAPO, Mr. HEFLEY, Mr. ALLARD, and Mrs. VUCANOVICH) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for uniform management of livestock grazing  
on Federal land, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Livestock Grazing Act”.

## 2

- 1 (b) TABLE OF CONTENTS.—The table of contents of  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Effective date.

## TITLE I—MANAGEMENT OF GRAZING ON FEDERAL LAND

### Subtitle A—General Provisions

Sec. 101. Findings.

Sec. 102. Application of title.

Sec. 103. Objective.

Sec. 104. Definitions.

Sec. 105. Fundamentals of rangeland health.

Sec. 106. Land use plans.

Sec. 107. Rule of construction.

### Subtitle B—Qualifications and Grazing Preferences

Sec. 111. Mandatory qualifications.

Sec. 112. Acquired land.

Sec. 113. Grazing preferences.

Sec. 114. Changes in grazing preference status.

Sec. 115. Changes in Federal land acreage.

### Subtitle C—Grazing Management

Sec. 121. Allotment management plans.

Sec. 122. Range improvements.

Sec. 123. Water rights.

Sec. 124. Management of grazing on land under the jurisdiction of other departments and agencies.

### Subtitle D—Authorization of Grazing Use

Sec. 131. Applications.

Sec. 132. Grazing permits or grazing leases.

Sec. 133. Free-use grazing permits.

Sec. 134. Other grazing authorizations.

Sec. 135. Ownership and identification of livestock.

Sec. 136. Terms and conditions.

Sec. 137. Fees and charges.

Sec. 138. Pledge of grazing permits or grazing leases as security for loans.

### Subtitle E—Civil Violations and Failures of Compliance

Sec. 141. Civil violations and failures of compliance.

### Subtitle F—Unauthorized Grazing Use

Sec. 151. Liability for damages.

Sec. 152. Notice and order to remove.

Sec. 153. Settlement.

Sec. 154. Impoundment and sale.

### Subtitle G—Procedure

## 3

Sec. 161. Proposed decisions.

Sec. 162. Protests.

Sec. 163. Final decisions.

Sec. 164. Appeals.

#### Subtitle H—Advisory Committees

Sec. 171. Purpose.

Sec. 172. Objective.

Sec. 173. Relation to other law.

Sec. 174. Policy.

Sec. 175. General provisions.

Sec. 176. Resource advisory councils.

Sec. 177. Grazing advisory councils.

Sec. 178. Meetings.

Sec. 179. Conforming amendment and repeal.

#### Subtitle I—Reports

Sec. 181. Reports.

### TITLE II—GRASSLAND

Sec. 201. Removal of grasslands from National Forest system.

#### 1 SEC. 2. EFFECTIVE DATE.

2 (a) IN GENERAL.—This Act and the amendments  
3 and repeals made by this Act shall become effective on  
4 March 1, 1996.

5 (b) INTERIM PROVISION.—Until the effective date  
6 specified in subsection (a), management of livestock graz-  
7 ing on Federal land shall be conducted in accordance with  
8 the law (including regulations) in effect on May 18, 1995.

## 9 TITLE I—MANAGEMENT OF 10 GRAZING ON FEDERAL LAND

### 11 Subtitle A—General Provisions

#### 12 SEC. 101. FINDINGS.

13 (a) FINDINGS.—Congress finds that—

14 (1) through the cooperative and concerted ef-  
15 forts of the Federal rangeland livestock industry,



1 Federal and State land management agencies, and  
2 the general public, the Federal rangelands are in the  
3 best condition they have been in during this century,  
4 and their condition continues to improve;

5 (2) as a further consequence of those efforts,  
6 populations of big game and wildlife are increasing  
7 and stabilizing across vast areas of the West;

8 (3) further efforts to assist in developing and  
9 nurturing that cooperation at all levels of govern-  
10 ment are important, and those efforts will provide  
11 long-term benefits to the Nation's rangelands and  
12 their related resources;

13 (4) to promote the economic, cultural, and so-  
14 cial well being of western States, rural communities  
15 in the western States, and the western livestock in-  
16 dustry, it is in the public interest to charge a fee for  
17 livestock grazing permits and grazing leases on Fed-  
18 eral land that is based on a formula that—

19 (A) reflects a fair return to the Federal  
20 Government and the true costs to the permittee  
21 or lessee; and

22 (B) promotes continuing cooperative stew-  
23 ardship efforts;

24 (5) opportunities exist for improving efficiency  
25 in the administration of the range programs on Fed-

1       eral land, and those opportunities should be pursued  
2       with goals of—

3               (A) reducing planning and analysis costs  
4               and their associated paperwork, procedural, and  
5               clerical burdens; and

6               (B) refocusing efforts to the direct man-  
7               agement of the resources themselves;

8               (6) in order to provide meaningful review and  
9       oversight of the management of the public range-  
10      lands and the grazing allotment on those rangelands,  
11      refinement of the reporting of costs of various com-  
12      ponents of the land management program is needed;

13              (7) incentives for greater local input into the  
14      management of the public rangelands as well as in-  
15      centives to encourage private investment in improve-  
16      ment of the public rangelands will assist in those ef-  
17      forts and are in the best interests of the United  
18      States;

19              (8) the western livestock industry that relies on  
20      Federal land plays an important and integral role in  
21      maintaining and preserving the social, economic, and  
22      cultural base of rural communities in the western  
23      States and further plays an important and integral  
24      role in the economies of the 16 western States in

1       which rangelands managed by the Secretary are  
2       situated;

3           (9) maintaining the economic viability of the  
4       western livestock industry is essential to maintaining  
5       open space and habitat for big game, wildlife, and  
6       fish, but currently there are pressures to sell the  
7       base property of the Federal land ranches for sub-  
8       division or other development, which would reduce or  
9       remove the available open space and fish and wildlife  
10      habitat; and

11          (10) since the enactment of the Federal Land  
12      Policy and Management Act of 1976 (43 U.S.C.  
13      1701 et seq.), the Secretary has been charged with  
14      developing land use plans that are consistent with  
15      land use plans adopted by State, local, and tribal  
16      governments, but to date the planning efforts have  
17      not produced land use plans for Federal land that  
18      is in fact consistent with State, local, or tribal plan-  
19      ning.

20      (b) REPEAL OF EARLIER FINDINGS.—Section 2(a) of  
21      the Public Rangelands Improvement Act of 1978 (43  
22      U.S.C. 1901(a)) is amended—

23          (1) by striking paragraphs (1), (2), (3), and  
24      (4);

1           (2) by redesignating paragraphs (5) and (6) as  
2 paragraphs (1) and (2), respectively;

3           (3) in paragraph (1) (as so redesignated), by  
4 adding “and” at the end; and

5           (4) in paragraph (2) (as so redesignated)—

6           (A) by striking “harrassment” and insert-  
7 ing “harassment”; and

8           (B) by striking the semicolon at the end  
9 and inserting a period.

10 **SEC. 102. APPLICATION OF ACT.**

11       Except as provided in section 137(d), this Act applies  
12 to—

13           (1) the management of grazing on Federal land  
14 by the Secretary of the Interior under—

15           (A) the Act of June 28, 1934 (commonly  
16 known as the “Taylor Grazing Act”) (48 Stat.  
17 1269, chapter 865; 43 U.S.C. 315 et seq.);

18           (B) the Act of August 28, 1937 (commonly  
19 known as the “Oregon and California Railroad  
20 and Coos Bay Wagon Road Grant Lands Act of  
21 1937”) (50 Stat. 874, chapter 876; 43 U.S.C.  
22 1181a et seq.);

23           (C) the Federal Land Policy and Manage-  
24 ment Act of 1976 (43 U.S.C. 1701 et seq.);

1 (D) title III of the Bankhead-Jones Farm  
2 Tenant Act (7 U.S.C. 1010 et seq.); and

3 (E) any other law; and

4 (2) the Secretary on behalf of the head of an-  
5 other department or agency under a memorandum  
6 of understanding under section 124.

7 **SEC. 103. OBJECTIVE.**

8 The objective of this Act is to achieve—

9 (1) orderly use, improvement, and development  
10 of Federal land;

11 (2) enhancement of productivity of Federal land  
12 by conservation of forage resources and reduction of  
13 soil erosion and by proper management of other re-  
14 sources such as by control of woody species invasion;

15 (3) stabilization of the livestock industry de-  
16 pendent on the public rangeland;

17 (4) performance of an inventory and categoriza-  
18 tion of public rangelands on the basis of range con-  
19 ditions and trends; and

20 (5) consideration of wildlife populations and  
21 habitat,

22 consistent with land-use plans, multiple-use, sustained  
23 yield, environmental values, and economic and other objec-  
24 tives stated in the Acts cited in section 102.

1 **SEC. 104. DEFINITIONS.**

2 (a) IN GENERAL.—In this Act:

3 (1) ACTIVE USE.—The term “active use”  
4 means the amount of authorized livestock grazing  
5 use that is being made at any time.

6 (2) ACTUAL USE.—The term “actual use”  
7 means the places at which, the number and kinds or  
8 classes of, and the length of time that livestock  
9 graze on an allotment.

10 (3) ACTUAL USE REPORT.—The term “actual  
11 use report” means a report of the actual livestock  
12 grazing use submitted by a permittee or lessee.

13 (4) AFFECTED INTEREST.—The term “affected  
14 interest” means an individual or organization that—

15 (A) has expressed in writing to an author-  
16 ized officer concern for the management of live-  
17 stock grazing on a specific grazing allotment  
18 and has provided substantiated evidence that  
19 the management of the public lands will affect  
20 the individual or organization; and

21 (B) has been determined by an authorized  
22 officer to be an affected interest.

23 (5) ALLOTMENT.—The term “allotment” means  
24 an area of designated Federal land that includes  
25 management for grazing of livestock.

## 10

1 (6) ALLOTMENT MANAGEMENT PLAN.—The  
2 term “allotment management plan”—

3 (A) means a documented program that ap-  
4 plies to livestock grazing on an allotment; and

5 (B) includes such a documented plan that  
6 is included in an activity plan that governs  
7 grazing as well as other activities on Federal  
8 land.

9 (7) ANIMAL UNIT MONTH.—

10 (A) STATE DEFINITION.—With respect to  
11 grazing on Federal land in a State that charges  
12 a fee for grazing on State land based on a for-  
13 mula in which 1 of the factors is an animal unit  
14 month, the term “animal unit month” has the  
15 meaning established under State law.

16 (B) NO STATE DEFINITION.—

17 (i) IN GENERAL.—Subject to clause  
18 (ii), with respect to grazing on Federal  
19 land in a State other than a State de-  
20 scribed in subparagraph (A), the term  
21 “animal unit month” means 1 month’s use  
22 and occupancy of range by—

23 (I) 1 cow, bull, steer, heifer,  
24 horse, burro, or mule, 7 sheep, or 7  
25 goats, each of which is 6 months of

## 11

1 age or older on the date on which the  
2 animal begins grazing on Federal  
3 land;

4 (II) any such animal regardless  
5 of age if the animal is weaned on the  
6 date on which the animal begins graz-  
7 ing on Federal land; and

8 (III) any such animal that will  
9 become 12 months of age during the  
10 period of use authorized under a graz-  
11 ing permit or grazing lease.

12 (ii) LIVESTOCK NOT COUNTED.—  
13 There shall not be counted as an animal  
14 unit month the use of Federal land for  
15 grazing by—

16 (I) an animal that is less than 6  
17 months of age on the date on which  
18 the animal begins grazing on Federal  
19 land and is the natural progeny of an  
20 animal on which a grazing fee is paid  
21 if the animal is removed from the  
22 Federal land before becoming 12  
23 months of age; or

24 (II) an animal that is progeny,  
25 born during the period of use author-



## 12

1                   ized under a grazing permit or graz-  
2                   ing lease, of an animal on which a  
3                   grazing fee is paid.

4           (8) AUTHORIZED OFFICER.—The term “author-  
5           ized officer” means a person authorized by the Sec-  
6           retary to administer this title, the Acts cited in sec-  
7           tion 102, and regulations issued under this title and  
8           those Acts.

9           (9) BASE PROPERTY.—The term “base prop-  
10          erty” means—

11               (A) land that has the capability of produc-  
12               ing crops or forage that can be used to support  
13               authorized livestock for a specified period of the  
14               year; and

15               (B) water that is suitable for consumption  
16               by livestock and is available to and accessible by  
17               authorized livestock when the land is used for  
18               livestock grazing.

19          (10) CANCEL; CANCELLATION.—The terms  
20          “cancel” and “cancellation” refer to a permanent  
21          termination, in whole or in part, of—

22               (A) a grazing permit or grazing lease and  
23               grazing preference; or

24               (B) a free-use grazing permit or other  
25               grazing authorization.

1           (11) CLASS.—The term “class”, in reference to  
2       livestock, refers to the age and sex of a group of  
3       livestock.

4           (12) CONSULTATION, COOPERATION, AND CO-  
5       ORDINATION.—The term “consultation, cooperation,  
6       and coordination” has the meaning stated in section  
7       402(d) of the Federal Land Policy and Management  
8       Act of 1976 (43 U.S.C. 1752(d)), as amended.

9           (13) CONTROL.—The term “control”, in ref-  
10      erence to base property or livestock, means respon-  
11      sibility for providing care and management of base  
12      property or livestock.

13          (14) FEDERAL LAND.—The term “Federal  
14      land”—

15                (A) means land or an interest in land out-  
16                side the State of Alaska that is owned by the  
17                United States and administered by the Sec-  
18                retary of the Interior, acting through the Direc-  
19                tor of the Bureau of Land Management; but

20                (B) does not include land held for the ben-  
21                efit of Indians.

22          (15) GRAZING DISTRICT.—The term “grazing  
23      district” means the specific area within which Fed-  
24      eral land is administered under section 3 of the Act  
25      of June 28, 1934 (commonly known as the “Taylor

Grazing Act”) (48 Stat. 1270, chapter 865; 43 U.S.C. 315b).

(16) GRAZING FEE YEAR.—The term “grazing fee year”, for billing purposes, means a 12-month period that begins on March 1 of a year and ends on the last day of February of the following year.

(17) GRAZING LEASE.—The term “grazing lease” means a document authorizing use of Federal land outside grazing districts under section 15 of the Act of June 28, 1934 (commonly known as the “Taylor Grazing Act”) (48 Stat. 1275, chapter 865; 43 U.S.C. 315m), for the purpose of grazing livestock.

(18) GRAZING PERMIT.—The term “grazing permit” means a document authorizing use of the Federal land within a grazing district under section 3 of the Act of June 28, 1934 (commonly known as the “Taylor Grazing Act”) (48 Stat. 1270, chapter 865; 43 U.S.C. 315b), for the purpose of grazing livestock.

(19) GRAZING PREFERENCE.—The term “grazing preference” means the number of animal unit months of livestock grazing on Federal land as adjudicated or apportioned and attached to base property owned or controlled by a permittee or lessee.

1           (20) LAND BASE PROPERTY.—The term “land  
2     base property” means base property described in  
3     paragraph (9)(A).

4           (21) LAND USE PLAN.—The term “land use  
5     plan” means—

6                 (A) a resource management plan; or

7                 (B) a management framework plan that is  
8             in effect pending completion of a resource man-  
9             agement plan,  
10            developed in accordance with the Federal Land Pol-  
11            icy and Management Act of 1976 (43 U.S.C. 1701  
12            et seq.).

13          (22) LIVESTOCK.—The term “livestock”  
14     means—

15                 (A) a species of domestic livestock, includ-  
16             ing cattle, sheep, horses, burros, and goats; and

17                 (B) a member of such a species.

18          (23) LIVESTOCK CARRYING CAPACITY.—The  
19     term “livestock carrying capacity” means the maxi-  
20     mum sustainable stocking rate that is possible with-  
21     out inducing permanent damage to vegetation or re-  
22     lated resources.

23          (24) MONITORING.—The term “monitoring”  
24     means the periodic observation and orderly collection  
25     of data to evaluate—

1 (A) effects of management actions; and

2 (B) effectiveness of actions in meeting  
3 management objectives.

4 (25) RANGE IMPROVEMENT.—The term “range  
5 improvement”—

6 (A) means an authorized activity or pro-  
7 gram on or relating to rangeland that is de-  
8 signed to—

9 (i) improve production of forage;

10 (ii) change vegetative composition;

11 (iii) control patterns of use;

12 (iv) provide water;

13 (v) stabilize soil and water conditions;

14 or

15 (vi) provide habitat for livestock, wild  
16 horses and burros, and wildlife; and

17 (B) includes structures, treatment projects,  
18 and use of mechanical means to accomplish the  
19 goals described in subparagraph (A).

20 (26) RANGELAND STUDY.—The term “range-  
21 land study” means a method of study for collecting  
22 data on actual use, utilization, climatic conditions,  
23 other special events, production trend, and range-  
24 land condition and trend to determine whether man-  
25 agement objectives are being met, that—

1           (A) uses physical examination of measure-  
2           ments of range attributes and does not rely on  
3           a cursory visual scanning of land unless the  
4           condition to be assessed is patently obvious and  
5           requires no physical examination; and

6           (B) is accepted by an authorized officer.

7           (27) SECRETARY.—The term “Secretary”  
8           means the Secretary of the Interior.

9           (28) SERVICE AREA.—The term “service area”  
10          means the area that can be properly grazed by live-  
11          stock watering at a certain water.

12          (29) STOCKING RATE.—The term “stocking  
13          rate” means the number of animal unit months au-  
14          thorized under a grazing permit or grazing lease  
15          from year to year.

16          (30) SUBLEASE.—The term “sublease” means  
17          an agreement by a permittee or lessee that—

18                (A) allows a person other than the permit-  
19                tee or lessee to graze livestock on Federal land  
20                without controlling the base property support-  
21                ing the grazing permit or grazing lease; or

22                (B) allows grazing on Federal land by live-  
23                stock not owned or controlled by the permittee  
24                or lessee.

(31) SUPPLEMENTAL FEED.—The term “supplemental feed” means a feed that supplements the forage available from Federal land and is provided to improve livestock nutrition or rangeland management.

(32) SUSPEND; SUSPENSION.—The terms “suspend” and “suspension” refer to a temporary withholding, in whole or in part, of a grazing preference from active use, ordered by the Secretary or done voluntarily by a permittee or lessee.

(33) TREND.—The term “trend” means the direction of change, over time, toward or away from a desired management objective.

(34) UTILIZATION.—The term “utilization” means the percentage of a year’s herbage production consumed or destroyed by herbivores.

(35) WATER BASE PROPERTY.—The term “water base property” means base property described in paragraph (9)(B).

(b) CONSULTATION, COOPERATION, AND COORDINATION.—Section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)) is amended—

(1) by inserting a comma after “cooperation” each place it appears; and

1           (2) by adding at the end the following: "As  
2       used in this subsection, the term 'consultation, co-  
3       operation, and coordination' means engagement in a  
4       good faith effort to reach consensus on issues, plans,  
5       or management actions from—

6           “(1) other agencies, permittees or lessees, and  
7       affected interests involved in an activity with respect  
8       to which consultation, cooperation, and coordination  
9       are required under this title;

10          “(2) resource advisory councils established  
11       under section 177 of the Livestock Grazing Act;

12          “(3) any State having land within the area to  
13       be covered by an allotment management plan; and

14          “(4) additional affected interests (as defined in  
15       section 104(a)(4) of the Livestock Grazing Act).”.

16 **SEC. 105. FUNDAMENTALS OF RANGELAND HEALTH.**

17       (a) **STANDARDS AND GUIDELINES.**—The Secretary  
18       shall establish standards and guidelines on a State or re-  
19       gional level in conjunction with the State department of  
20       agriculture or other appropriate agency and the land-grant  
21       university or other appropriate institution of higher edu-  
22       cation of each interested State.

23       (b) **RULE OF CONSTRUCTION.**—Nothing in this Act  
24       or any other law implies that a minimum national stand-  
25       ard or guideline is necessary.



1 **SEC. 106. LAND USE PLANS.**

2 (a) **PRINCIPLE OF MULTIPLE USE AND SUSTAINED**  
3 **YIELD.**—An authorized officer shall manage livestock  
4 grazing on Federal land under the principle of multiple  
5 use and sustained yield and in accordance with applicable  
6 land use plans.

7 (b) **CONTENTS OF LAND USE PLAN.**—A land use  
8 plan shall—

9 (1) establish allowable resource uses (singly or  
10 in combination), related levels of production or use  
11 to be maintained, areas of use, and resource condi-  
12 tion goals and objectives to be obtained; and

13 (2) set forth programs and general manage-  
14 ment practices needed to achieve management objec-  
15 tives.

16 (c) **APPLICATION OF NEPA.**—A land use plan shall  
17 be developed in conformance with the requirements of the  
18 National Environmental Policy Act of 1969 (42 U.S.C.  
19 4321 et seq.).

20 (d) **CONFORMANCE WITH LAND USE PLAN.**—Live-  
21 stock grazing activities and management actions approved  
22 by the authorized officer—

23 (1) may include any such activities as are not  
24 clearly prohibited by a land use plan; and

25 (2) shall not require any consideration under  
26 the National Environmental Policy Act of 1969 (42

1 U.S.C. 4321 et seq.) in addition to the studies sup-  
2 porting the land use plan.

3 **SEC. 107. RULE OF CONSTRUCTION.**

4 Nothing in this title shall be construed to reduce or  
5 otherwise limit the levels of livestock grazing that were  
6 authorized to be permitted as of August 1, 1993.

7 **Subtitle B—Qualifications and**  
8 **Grazing Preferences**

9 **SEC. 111. MANDATORY QUALIFICATIONS.**

10 Except as provided under sections 112, 114, and  
11 134(c), to qualify for grazing use on Federal land an ap-  
12 plicant shall—

13 (1) be engaged in the livestock business;

14 (2) own or control base property; and

15 (3) be—

16 (A) a citizen of the United States or a per-  
17 son who has properly filed a valid declaration of  
18 intention to become a citizen or a valid petition  
19 for naturalization;

20 (B) a group or association authorized to  
21 conduct business in the State in which the graz-  
22 ing use is sought, all members of which are per-  
23 sons described in subparagraph (A); or

1 (C) a corporation authorized to conduct  
2 business in the State in which the grazing use  
3 is sought.

4 **SEC. 112. ACQUIRED LAND.**

5 With respect to land acquired by the Secretary  
6 through purchase, exchange, Act of Congress, or Execu-  
7 tive order under the terms of which the Secretary is re-  
8 quired to honor an existing grazing permit or grazing  
9 lease, the permittee or lessee shall be considered qualified  
10 for grazing use on that land.

11 **SEC. 113. GRAZING PREFERENCES.**

12 (a) BASE PROPERTY.—

13 (1) CRITERIA.—An authorized officer shall find  
14 land or water owned or controlled by an applicant  
15 for a grazing permit or grazing lease to be base  
16 property if the land or water—

17 (A) serves as a base for a livestock oper-  
18 ation that utilizes Federal land within a grazing  
19 district; or

20 (B) is contiguous land, or noncontiguous  
21 land if no applicant for the grazing permit or  
22 grazing lease owns or controls contiguous land,  
23 used in conjunction with a livestock operation  
24 that utilizes Federal land outside a grazing  
25 district.

1           (2) SPECIFICATION OF LENGTH OF TIME.—

2       After appropriate consultation, cooperation, and co-  
3       ordination with the applicant only, an authorized of-  
4       ficer shall specify the length of time for which land  
5       base property shall be considered to be capable of  
6       supporting authorized livestock during the year, rel-  
7       ative to the multiple use management objective of  
8       Federal land.

9           (3) SUBMISSION BY APPLICANT.—An applicant  
10       shall—

11           (A) provide a legal description, or plat, of  
12       the base property; and

13           (B) certify to the authorized officer that  
14       the base property meets the requirements under  
15       paragraphs (1) and (2).

16           (4) LOSS OF OWNERSHIP OR CONTROL.—

17           (A) IN GENERAL.—Except as provided in  
18       subparagraph (B), if a permittee or lessee loses  
19       ownership or control of all or part of the base  
20       property, the grazing permit or grazing lease, to  
21       the extent it was based on the lost property,  
22       shall terminate immediately, without notice  
23       from the authorized officer.

24           (B) EXTENSION OF TERMINATION DATE.—

25       If, prior to losing ownership or control of the

1 base property, the permittee or lessee requests  
2 in writing that the grazing permit or grazing  
3 lease be extended to the end of the grazing sea-  
4 son or grazing year, the authorized officer, after  
5 consultation with the new owner or person in  
6 control, may grant the request.

7 (C) AVAILABILITY FOR TRANSFER.—When  
8 a grazing permit or grazing lease terminates be-  
9 cause of a loss of ownership or control of a base  
10 property, the grazing preference shall remain  
11 with the base property and be available for  
12 transfer under subsection (c) to the new owner  
13 or person in control of the base property.

14 (5) ISOLATED OR DISCONNECTED FEDERAL  
15 LAND.—An applicant that owns or controls base  
16 property contiguous to or cornering on a tract of  
17 Federal land outside a grazing district that consists  
18 of an isolated or disconnected tract embracing 760  
19 acres or less shall, for a period of 90 days after the  
20 tract has been offered for grazing lease, have a pref-  
21 erence right to graze the tract.

22 (b) SPECIFYING GRAZING PREFERENCE.—

23 (1) IN GENERAL.—A grazing permit or grazing  
24 lease shall specify a grazing preference that in-  
25 cludes—

## 25

- 1 (A) a historical grazing preference right;  
2 (B) active use, based on the amount of for-  
3 age available for livestock grazing established in  
4 the land use plan;  
5 (C) suspended use; and  
6 (D) voluntary and temporary nonuse.

7 (2) ATTACHMENT OF GRAZING PREFERENCE.—

8 A grazing preference identified in a grazing permit  
9 or grazing lease shall attach to the base property  
10 supporting the grazing permit or grazing lease.

11 (3) ATTACHMENT OF ANIMAL UNIT MONTHS.—

12 The animal unit months of a grazing preference  
13 shall attach to—

14 (A) the acreage of land base property on a  
15 pro rata basis; or

16 (B) water base property on the basis of  
17 livestock forage production within the service  
18 area of the water.

19 (c) TRANSFER OF GRAZING PREFERENCE.—

20 (1) IN GENERAL.—A transfer of a grazing pref-  
21 erence, in whole or in part, may be made in accord-  
22 ance with this subsection.

23 (2) QUALIFICATION OF TRANSFEREE.—A trans-  
24 feree shall meet all necessary qualifications for a  
25 grazing preference under this title.

1           (3) APPLICATION.—An application to transfer a  
2       grazing preference shall evidence assignment of in-  
3       terest and obligation in range improvements author-  
4       ized on Federal land under section 122 and main-  
5       tained in conjunction with the transferred pref-  
6       erence.

7           (4) ACCEPTANCE OR REJECTION OF TERMS AND  
8       CONDITIONS.—A transferee of a grazing preference  
9       may elect to accept or reject the terms and condi-  
10      tions of the terminating grazing permit or grazing  
11      lease and of any related cooperative agreement or  
12      range improvement permit or to accept those terms  
13      and conditions with such modifications as the trans-  
14      feree may request and the authorized officer approve  
15      or with such modifications as the authorized officer  
16      may require.

17          (5) APPLICATION FOR GRAZING PERMIT OR  
18      GRAZING LEASE.—A proposed transferee shall file  
19      an application for a grazing permit or grazing lease  
20      to the extent of the transferred grazing preference  
21      simultaneously with the filing of a transfer applica-  
22      tion.

23          (6) TRANSFERS.—

24              (A) TRANSFERS ON SALE OR GRAZING  
25      LEASE OF BASE PROPERTY.—If base property is

1 sold or leased, the transferee, not later than 90  
2 days after the date of sale or grazing lease,  
3 shall file with the authorized officer a properly  
4 executed transfer application that—

5 (i) identifies the base property; and

6 (ii) states the amount of grazing pref-  
7 erence being transferred in animal unit  
8 months.

9 (B) TRANSFER FROM BASE PROPERTY TO  
10 BASE PROPERTY.—

11 (i) IN GENERAL.—If a grazing pref-  
12 erence is being transferred from 1 base  
13 property to another base property, the  
14 transferor shall own or control the base  
15 property from which the grazing preference  
16 is being transferred and file with the au-  
17 thorized officer a properly completed trans-  
18 fer application for approval.

19 (ii) CONSENT OF OWNER OF LEASED  
20 BASE PROPERTY.—If the transferor leases  
21 the base property, no transfer shall be al-  
22 lowed without the written consent of the  
23 owner and of any person or entity holding  
24 an encumbrance of the base property from  
25 which the transfer is to be made unless the



1 transferor is a lessee without whose live-  
2 stock operations the grazing preference  
3 would not have been established.

4 (7) TERMINATION.—On the date of approval of  
5 a transfer, the existing grazing permit or grazing  
6 lease shall terminate automatically and without no-  
7 tice to the extent of the transfer.

8 (8) ACQUISITION OF BASE PROPERTY BY PER-  
9 SON NOT QUALIFIED.—

10 (A) NO EFFECT FOR 2 YEARS.—For a pe-  
11 riod of 2 years after an unqualified transferee  
12 acquires rights in base property through oper-  
13 ation of law or testamentary disposition, the  
14 transfer shall not—

15 (i) affect the grazing preference or  
16 any outstanding grazing permit or grazing  
17 lease; or

18 (ii) preclude the issuance or renewal  
19 of a grazing permit or grazing lease based  
20 on the base property.

21 (B) CANCELLATION.—If an unqualified  
22 transferee fails to qualify for a transfer under  
23 this section within the 2-year period described  
24 in subparagraph (A), the grazing preference  
25 shall be subject to cancellation, but the author-

1            ized officer may grant extensions of the 2-year  
2            period if there have been delays solely attrib-  
3            utable to probate proceedings.

4            (9) FAILURE TO COMPLY.—Failure of a trans-  
5            feree or transferor to comply with this subsection  
6            may result in rejection of the transfer application or  
7            cancellation of the grazing preference.

8            (d) ALLOTMENTS.—After consultation, cooperation,  
9            and coordination with permittees or lessees, an authorized  
10          officer may designate and adjust allotment boundaries.

11    **SEC. 114. CHANGES IN GRAZING PREFERENCE STATUS.**

12          (a) IN GENERAL.—An authorized officer shall peri-  
13          odically review the stocking rate specified in a grazing per-  
14          mit or grazing lease and may make changes in the status  
15          of the stocking rate.

16          (b) SUPPORT.—A change in a stocking rate shall be  
17          supported by monitoring, as evidenced by rangeland stud-  
18          ies conducted over time, and as is specified in an applica-  
19          ble land use plan or as is necessary to manage, maintain,  
20          or improve rangeland productivity.

21          (c) INCREASE IN ACTIVE USE.—

22                (1) IN GENERAL.—Any additional forage that  
23                becomes available may be apportioned to a qualified  
24                applicant for livestock grazing use, consistent with  
25                multiple-use management objectives.

1           (2) TEMPORARY AVAILABILITY.—Any additional  
2 forage that becomes temporarily available for live-  
3 stock grazing use (including forage that is tempo-  
4 rarily available within an allotment because of a  
5 change in grazing use under section 131(b)) may be  
6 apportioned on a nonrenewable basis.

7           (3) AVAILABILITY ON SUSTAINED USE BASIS.—

8           (A) IN GENERAL.—Any additional forage  
9 that becomes available on a sustained yield  
10 basis for livestock grazing use shall be appor-  
11 tioned in satisfaction of grazing preferences to  
12 the permittees and lessees authorized to graze  
13 in the allotment in which the forage is available  
14 before being apportioned to other persons under  
15 subparagraph (B).

16           (B) APPORTIONMENT TO OTHERS.—After  
17 consultation, cooperation, and coordination, ad-  
18 ditional forage on a sustained yield basis avail-  
19 able for livestock grazing use exceeding the  
20 amount of grazing preferences of the permittees  
21 and lessees in an allotment may be apportioned  
22 in the following priority to—

23           (i) permittees and lessees in propor-  
24 tion to their contribution or efforts that re-  
25 sulted in increased forage production;

1 (ii) permittees or lessees in proportion  
2 to the amount of their grazing preferences;  
3 and

4 (iii) other qualified applicants under  
5 section 131.

6 (d) DECREASE IN AUTHORIZED GRAZING USE.—

7 (1) TEMPORARY SUSPENSION.—

8 (A) IN GENERAL.—Active use may be sus-  
9 pended in whole or in part on a temporary basis  
10 to facilitate—

11 (i) recovery from drought, fire, or an-  
12 other natural event; or

13 (ii) installation, maintenance, or modi-  
14 fication of range improvements.

15 (B) IMPLEMENTATION.—If an authorized  
16 officer determines that the soil, vegetation, or  
17 other resources on Federal land require tem-  
18 porary protection because of conditions such as  
19 drought, fire, flood, or insect infestation, after  
20 consultation, cooperation, and coordination with  
21 affected permittees or lessees and other affected  
22 interests, action shall be taken to close allot-  
23 ments or portions of allotments to grazing by  
24 any kind of livestock or to modify authorized  
25 grazing use.

1           (2) PERMANENT SUSPENSION.—When monitor-  
2       ing shows that active use is causing an unacceptable  
3       level or pattern of utilization or exceeds the livestock  
4       carrying capacity, as determined through monitor-  
5       ing, an authorized officer, after evaluating and im-  
6       plementing all reasonable and viable management  
7       practices or alternatives, shall reduce active use if  
8       necessary to maintain or improve rangeland produc-  
9       tivity only if the authorized officer determines that  
10      a change in management practices would not achieve  
11      the management objectives.

12          (3) PERIOD OF SUSPENSION.—When active use  
13      is reduced, the active use shall be held in suspension  
14      or in nonuse for conservation and protection pur-  
15      poses until the authorized officer determines that ac-  
16      tive use may resume.

17      (e) IMPLEMENTATION OF CHANGES IN AVAILABLE  
18      FORAGE.—

19          (1) PHASING-IN.—A change in active use in ex-  
20      cess of 10 percent shall be implemented over a 5-  
21      year period, unless, after consultation with the af-  
22      fected permittees or lessees and other affected inter-  
23      ests, an agreement is reached to implement the in-  
24      crease or decrease over less than a 5-year period.

25          (2) SUSPENSION OF GRAZING PREFERENCE.—

1           (A) IN GENERAL.—After consultation, co-  
2 operation, and coordination, a suspension of a  
3 grazing preference shall be implemented  
4 through a documented agreement or by decision  
5 of an authorized officer.

6           (B) DATA AVAILABLE.—If acceptable  
7 range analysis data are properly gathered, ana-  
8 lyzed, and reviewed by the authorized officer,  
9 an initial decrease shall be taken on the effec-  
10 tive date of the agreement or decision and the  
11 balance taken in the third and fifth years fol-  
12 lowing that effective date, except as provided in  
13 paragraph (1).

14          (C) DATA NOT AVAILABLE.—If data ac-  
15 ceptable to the authorized officer to support an  
16 initial decrease are not available—

17           (i) additional data shall be collected  
18 through monitoring and in coordination  
19 with the land-grant university (or other ap-  
20 propriate institution of higher education)  
21 and department of agriculture of the State;  
22 and

23           (ii) adjustments based on the addi-  
24 tional data shall be implemented by agree-

1                   ment or decision that will initiate the 5-  
2                   year implementation period.

3 **SEC. 115. CHANGES IN FEDERAL LAND ACREAGE.**

4       (a) INCREASES IN LAND ACREAGE.—If land outside  
5 a designated allotment becomes available for livestock  
6 grazing—

7           (1) the forage available for livestock shall be  
8       made available to a qualified applicant at the discre-  
9       tion of the authorized officer; and

10          (2) grazing use shall be apportioned under sec-  
11       tion 131.

12       (b) DECREASE IN LAND ACREAGE.—

13           (1) IN GENERAL.—If there is a decrease in  
14       Federal land acreage available for livestock grazing  
15       within an allotment—

16           (A) grazing permits or grazing leases may  
17       be canceled, suspended, or modified as appro-  
18       priate to reflect the changed area of use; and

19           (B) grazing preferences may be canceled or  
20       suspended in whole or in part.

21          (2) EQUITABLE APPORTIONMENT.—A cancella-  
22       tion or suspension determined by the authorized offi-  
23       cer to be necessary to protect Federal land—

1 (A) shall be apportioned as agreed among  
2 the authorized users and the authorized officer;  
3 or

4 (B) if no agreement is reached, shall be eq-  
5 uitably apportioned by the authorized officer  
6 based on the level of available forage and mag-  
7 nitude of the change in Federal land acreage  
8 available.

9 (3) DISPOSITION OR USE FOR PUBLIC PUR-  
10 POSE.—

11 (A) IN GENERAL.—If Federal land is dis-  
12 posed of or devoted to a public purpose so as  
13 to preclude livestock grazing, the Secretary  
14 shall, except in a case of emergency such as  
15 need to satisfy a national defense requirement  
16 in time of war or a natural disaster, provide  
17 permittees and lessees 2 years' notice prior to  
18 cancellation of grazing permits, grazing leases,  
19 and grazing preferences.

20 (B) WAIVER.—A permittee or lessee may  
21 unconditionally waive the 2-year prior notifica-  
22 tion required by subparagraph (A).

23 (C) RIGHT TO COMPENSATION.—A waiver  
24 under subparagraph (B) shall not prejudice a  
25 permittee's or lessee's right to reasonable com-



1           pensation at (but not in excess of) the fair mar-  
2           ket value of the permittee's or lessee's interest  
3           in authorized permanent range improvements  
4           located on Federal land.

## 5   **Subtitle C—Grazing Management**

### 6   **SEC. 121. ALLOTMENT MANAGEMENT PLANS.**

7           (a) IN GENERAL.—An allotment management plan  
8           shall be prepared in careful and considered consultation,  
9           cooperation, and coordination with permittees and lessees,  
10          landowners, the grazing advisory council for the grazing  
11          district, and any State having land within the area to be  
12          covered by the allotment management plan.

13          (b) CONTENTS.—An allotment management plan  
14          shall—

15               (1) include the terms and conditions described  
16               in section 136;

17               (2) prescribe the livestock grazing practices  
18               necessary to meet specific multiple-use management  
19               objectives;

20               (3) specify the limits of flexibility within which  
21               the permittee or lessee may adjust operations with-  
22               out prior approval of the authorized officer; and

23               (4) provide for monitoring to evaluate the effec-  
24               tiveness of management actions in achieving the spe-  
25               cific multiple-use management objectives of the plan.

1 (c) PRIVATE AND STATE LAND.—Private and State  
2 land shall be included in an allotment management plan  
3 with the consent or at the request of the person that owns  
4 or controls the land.

5 (d) INCORPORATION IN GRAZING PERMITS AND  
6 GRAZING LEASES.—An allotment management plan shall  
7 be incorporated into the affected grazing permits and  
8 grazing leases.

9 (e) SATISFACTION OF REQUIREMENTS OF OTHER  
10 LAWS.—The issuance of a grazing permit or grazing lease  
11 that is consistent with a land use plan shall not be consid-  
12 ered to be a Federal action requiring the conduct of any  
13 study or assessment under the National Environmental  
14 Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other  
15 law.

16 **SEC. 122. RANGE IMPROVEMENTS.**

17 (a) RANGE IMPROVEMENT COOPERATIVE AGREE-  
18 MENTS.—

19 (1) IN GENERAL.—The Secretary may enter  
20 into a cooperative agreement with a permittee or les-  
21 see for the construction, installation, modification,  
22 maintenance, or use of a permanent range improve-  
23 ment or development of a rangeland to achieve a  
24 management or resource condition objective.

1           (2) COST-SHARING.—A range improvement co-  
2       operative agreement shall specify how the costs or  
3       labor, or both, shall be shared between the United  
4       States and the other parties to the agreement.

5           (3) TITLE.—

6           (A) IN GENERAL.—Subject to valid exist-  
7       ing rights, title to an authorized permanent  
8       range improvement under a range improvement  
9       cooperative agreement shall be in the name of  
10      the permittee or lessee and of the United  
11      States, respectively, in proportion to the value  
12      of the contributions (funding, material, and  
13      labor) toward the initial cost of construction by  
14      the United States and the permittee or lessee,  
15      respectively.

16          (B) VALUE OF FEDERAL LAND.—For the  
17      purpose of subparagraph (A), only a contribu-  
18      tion to the construction, installation, modifica-  
19      tion, or maintenance of a permanent rangeland  
20      improvement itself, and not the value of Fed-  
21      eral land on which the improvement is placed,  
22      shall be taken into account.

23          (C) MAINTENANCE.—Maintenance of  
24      range improvements in the form of time as  
25      labor or monetary expenditures shall be applied

1 to the value and percentage of ownership pro-  
2 portionate to the value of the contribution by a  
3 party to the cooperative agreement.

4 (4) NONSTRUCTURAL RANGE IMPROVE-  
5 MENTS.—A range improvement cooperative agree-  
6 ment shall ensure that the respective parties enjoy  
7 the benefits of any nonstructural range improve-  
8 ment, such as seeding, spraying, and chaining, in  
9 proportion to each party's contribution to the im-  
10 provement.

11 (5) INCENTIVE.—A range improvement cooper-  
12 ative agreement shall contain terms and conditions  
13 that are designed to provide a permittee or lessee an  
14 incentive for investing in range improvements.

15 (b) RANGE IMPROVEMENT PERMITS.—

16 (1) APPLICATION.—A permittee or lessee may  
17 apply for a range improvement permit to construct,  
18 install, modify, maintain, or use a range improve-  
19 ment that is needed to achieve management objec-  
20 tives within the permittee's or lessee's allotment.

21 (2) FUNDING.—A permittee or lessee shall  
22 agree to provide full funding for construction, instal-  
23 lation, modification, or maintenance of a range im-  
24 provement covered by a range improvement permit.

1           (3) AUTHORIZED OFFICER TO ISSUE.—A range  
2   improvement permit shall be issued at the discretion  
3   of the authorized officer.

4           (4) TITLE.—Title to an authorized permanent  
5   range improvement under a range improvement per-  
6   mit shall be in the name of the permittee or lessee.

7           (5) CONTROL.—The use by livestock of stock  
8   ponds or wells authorized by a range improvement  
9   permit shall be controlled by the permittee or lessee  
10   holding a range improvement permit.

11          (c) STANDARDS, DESIGN, AND STIPULATIONS.—A  
12   range improvement cooperative agreement under sub-  
13   section (a) and a range improvement permit under sub-  
14   section (b) shall specify the standards and design, con-  
15   struction, and maintenance criteria for the range improve-  
16   ments.

17          (d) ASSIGNMENT OF RANGE IMPROVEMENTS.—An  
18   authorized officer shall not approve the transfer of a graz-  
19   ing preference under section 113(e) or approve use by the  
20   transferee of existing range improvements unless the  
21   transferee has agreed to compensate the transferor for the  
22   transferor's interest in the authorized improvements with-  
23   in the allotment as of the date of the transfer.

24          (e) REMOVAL AND COMPENSATION FOR LOSS OF  
25   RANGE IMPROVEMENTS.—

1           (1) PROHIBITION OF REMOVAL.—A person shall  
2 not remove a range improvement from Federal land  
3 without authorization by the authorized officer.

4           (2) REQUIREMENT TO REMOVE.—The author-  
5 ized officer may require a permittee or lessee to re-  
6 move a range improvement on Federal land that the  
7 permittee or lessee owns if the improvement is no  
8 longer helping to achieve land use plan or allotment  
9 goals and objectives or if the improvement fails to  
10 meet the standards and criteria of subsection (c).

11           (3) CANCELLATION OF GRAZING PERMIT OR  
12 GRAZING LEASE.—

13           (A) IN GENERAL.—If a grazing permit or  
14 grazing lease is canceled in order to devote Fed-  
15 eral land covered by the grazing permit or graz-  
16 ing lease to another public purpose, including  
17 disposal, the permittee or lessee shall be enti-  
18 tled to receive from the United States reason-  
19 able compensation for the value of the permit-  
20 tee's or lessee's interest in authorized perma-  
21 nent range improvements purchased by the per-  
22 mittee or lessee or placed or constructed by the  
23 permittee or lessee on Federal land covered by  
24 the canceled grazing permit or grazing lease.

1           (B) FAIR MARKET VALUE.—The value of a  
2           permittee's or lessee's interest under subpara-  
3           graph (A) shall be equal to the fair market  
4           value of the terminated portion of the permit-  
5           tee's or lessee's interest in the permanent range  
6           improvements.

7           (C) SALVAGE AND REHABILITATION.—In a  
8           case in which a range improvement is author-  
9           ized by a range improvement permit or range  
10          improvement cooperative agreement, the per-  
11          mittee or lessee may elect to salvage materials  
12          and perform rehabilitation measures rather  
13          than accept compensation for the fair market  
14          value.

15          (4) CANCELLATION OF RANGE IMPROVEMENT  
16          PERMIT OR COOPERATIVE AGREEMENT.—If a range  
17          improvement permit or range improvement coopera-  
18          tive agreement is canceled, the permittee or lessee  
19          shall be allowed 180 days after the date of cancella-  
20          tion in which to salvage material owned by the lessee  
21          or permittee and perform rehabilitation measures  
22          necessitated by the salvage.

23          (i) CONTRIBUTIONS.—An authorized officer may ac-  
24          cept contributions of labor, material, equipment, or money

1 for administration, protection, and improvement of Fed-  
2 eral land necessary to achieve the objectives of this title.

3 (j) TRANSFER OF OWNERSHIP OF IMPROVEMENTS.—

4 (1) MEDIATION.—An authorized officer may—

5 (A) mediate a dispute regarding reasonable  
6 compensation in connection with a transfer of  
7 ownership of a range improvement; and

8 (B) following consultation with the inter-  
9 ested parties, make a determination concerning  
10 the fair and reasonable share of operation and  
11 maintenance expenses and compensation for use  
12 of authorized range improvements.

13 (2) NO AGREEMENT.—If an agreement on the  
14 amount of compensation cannot be reached, the au-  
15 thorized officer shall issue a temporary grazing au-  
16 thorization, including appropriate terms and condi-  
17 tions and the requirement to compensate the permit-  
18 tee or lessee for the fair share of operation and  
19 maintenance, as determined by the authorized  
20 officer.

21 **SEC. 123. WATER RIGHTS.**

22 (a) IN GENERAL.—No water rights shall be acquired,  
23 perfected, owned, controlled, maintained, administered, or  
24 transferred in connection with livestock grazing manage-  
25 ment unless authorized in accordance with State law con-



cerning the use and appropriation of water within the State.

(b) STATE LAW.—In managing livestock grazing on Federal land, the Secretary shall follow State law with regard to water ownership.

(c) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to create an expressed or implied reservation of water rights in the United States.

**SEC. 124. MANAGEMENT OF GRAZING ON LAND UNDER THE  
JURISDICTION OF OTHER DEPARTMENTS  
AND AGENCIES.**

(a) IN GENERAL.—In the case of land under the administrative jurisdiction of the head of another entity in the department or of another department or agency on which grazing is managed by the Secretary on behalf of the head of that entity, department, or agency, the Secretary shall enter into a memorandum of understanding setting out the terms and conditions under which grazing will be managed on that land.

(b) APPLICATION OF TITLE.—This title shall apply to management of grazing under subsection (a) except to the extent that the Secretary, in consultation with the head of the department or agency with jurisdiction over the land, in view of the needs of the other department

1 or agency or the applicability of other law, requires appli-  
2 cation of different rules.

3       **Subtitle D—Authorization of**  
4               **Grazing Use**

5       **SEC. 131. APPLICATIONS.**

6       (a) IN GENERAL.—An application for a grazing per-  
7 mit or grazing lease authorizing active use and nonuse,  
8 a free-use grazing permit, or other grazing authorization  
9 shall be filed with the authorized officer at the local Bu-  
10 reau of Land Management office having jurisdiction over  
11 the Federal land that is the subject of the application.

12       (b) CHANGES IN GRAZING USE.—

13           (1) IN GENERAL.—In the case of any grazing  
14 fee year, an application for a change in grazing use  
15 should be filed with the authorized officer before the  
16 billing notice for the affected grazing use has been  
17 issued for the grazing fee year.

18           (2) LATE FILING.—An application for a change  
19 in grazing use filed after a billing notice for the af-  
20 fected grazing use has been issued that requires the  
21 issuance of a replacement or supplemental billing no-  
22 tice shall be subject to a service charge under section  
23 137(d).

1 (3) AUTHORITY TO GRANT.—An authorized of-  
2 ficer may grant an application for a change in graz-  
3 ing use.

4 (c) CONFLICTING APPLICATIONS.—

5 (1) FACTORS TO BE CONSIDERED.—If more  
6 than 1 qualified applicant applies for livestock graz-  
7 ing use of the same Federal land or if additional for-  
8 age for livestock or additional acreage becomes avail-  
9 able, an authorized officer may authorize grazing  
10 use of the Federal land or use of forage—

11 (A) as provided in section 114(e); or

12 (B) on the basis of any of the following  
13 factors:

14 (i) Historical use of Federal land.

15 (ii) Proper range management and  
16 use of water for livestock.

17 (iii) General needs of the applicants'  
18 livestock operations.

19 (iv) Topography.

20 (v) Other land use requirements  
21 unique to the situation.

22 (2) FACTOR NOT TO BE CONSIDERED.—In au-  
23 thorizing grazing use or use of forage under para-  
24 graph (1), an authorized officer shall not take into  
25 consideration the past practice or present willingness

1 of an applicant to allow public access to Federal  
2 land over private land.

3 **SEC. 132. GRAZING PERMITS OR GRAZING LEASES.**

4 (a) SPECIFICATION OF TERMS AND CONDITIONS.—

5 A grazing permit or grazing lease shall specify terms and  
6 conditions as required by section 136.

7 (b) TERM.—A grazing permit or grazing lease shall  
8 be issued for a term of 15 years unless—

9 (1) the land is pending disposal;

10 (2) the land will be devoted to a public purpose  
11 that precludes grazing prior to the end of 15 years;  
12 or

13 (3) the Secretary determines that it would be in  
14 the best interest of sound land management to speci-  
15 fy a shorter term, if the decision to specify a shorter  
16 term is supported by appropriate and accepted re-  
17 source analysis and evaluation.

18 (c) RENEWAL.—A permittee or lessee holding a graz-  
19 ing permit or grazing lease shall be given first priority  
20 at the end of the term for renewal of the grazing permit  
21 or grazing lease if—

22 (1) the land for which the grazing permit or  
23 grazing lease is issued remains available for domes-  
24 tic livestock grazing;

(2) the permittee or lessee is in compliance with this title and the terms and conditions of the grazing permit or grazing lease; and

(3) the permittee or lessee accepts the terms and conditions included by the authorized officer in the new grazing permit or grazing lease.

**SEC. 133. FREE-USE GRAZING PERMITS.**

(a) IN GENERAL.—A free-use grazing permit may be issued, consistent with the Act, cited in section 102, to an applicant—

(1) whose residence is adjacent to Federal land within a grazing district;

(2) who needs Federal land to support domestic livestock owned by the applicant; and

(3) whose products or work related to livestock grazing are used directly and exclusively by the applicant and the applicant's family.

(b) CONFLICTING APPLICATIONS.—The issuance of a free-use grazing permit is subject to section 131(c).

(c) TERM.—A free-use grazing permit shall be issued for a term of 1 year.

(d) NO TRANSFER OR ASSIGNMENT.—A free-use grazing permit may not be transferred or assigned.

**SEC. 134. OTHER GRAZING AUTHORIZATIONS.**

(a) EXCHANGE-OF-USE GRAZING AGREEMENTS.—

1           (1) IN GENERAL.—An exchange-of-use grazing  
2       agreement may be issued to any applicant that owns  
3       or controls land that is unfenced and intermingled  
4       with Federal land when use under such an agree-  
5       ment would be in harmony with the management ob-  
6       jectives for the allotment.

7           (2) EXTENT OF USE.—An exchange-of-use  
8       grazing agreement may authorize use of Federal  
9       land to the extent of the livestock carrying capacity  
10      of the land offered in exchange-of-use.

11          (3) NO FEE.—No fee shall be charged for graz-  
12      ing use under an exchange-of-use agreement.

13          (b) NONRENEWABLE GRAZING PERMITS AND GRAZ-  
14      ING LEASES.—A nonrenewable grazing permit or grazing  
15      lease may be issued on an annual basis to a qualified ap-  
16      plicant when forage is temporarily available if grazing use  
17      under the grazing permit or grazing lease—

18           (1) is consistent with multiple-use objectives;  
19      and

20           (2) does not interfere with other livestock oper-  
21      ations on the Federal land concerned.

22          (c) CROSSING PERMITS.—An applicant showing the  
23      necessity for crossing Federal land or other land under  
24      control of the Secretary with livestock for proper and law-  
25      ful purposes may be issued a crossing permit on such

1 terms and conditions as the authorized officer considers  
2 necessary to achieve the objectives of this title.

3 (d) SPECIAL GRAZING PERMITS OR GRAZING  
4 LEASES.—

5 (1) IN GENERAL.—A special grazing permit or  
6 grazing lease authorizing grazing use by privately  
7 owned or controlled indigenous animals may be is-  
8 sued at the discretion of the authorized officer, con-  
9 sistent with multiple-use objectives.

10 (2) TERM.—A special grazing permit or grazing  
11 lease shall be issued for such a term as the author-  
12 ized officer considers to be appropriate, not to ex-  
13 ceed 10 years.

14 (e) NO PRIORITY; NO TRANSFER OR ASSIGNMENT.—  
15 An exchange-of-use grazing agreement, nonrenewable  
16 grazing permit or grazing lease, crossing permit, or special  
17 grazing permit or grazing lease shall have no priority for  
18 renewal and may not be transferred or assigned.

19 **SEC. 135. OWNERSHIP AND IDENTIFICATION OF LIVE-**  
20 **STOCK.**

21 (a) IN GENERAL.—A permittee or lessee shall own  
22 or control and be responsible for the management of the  
23 livestock that graze the Federal land under a grazing per-  
24 mit or grazing lease.

1 (b) COMPLIANCE WITH STATE REQUIREMENTS.—An  
2 authorized user shall comply with the requirements of the  
3 State in which Federal land is located relating to brand-  
4 ing, marking, or tagging of livestock, breed, grade, and  
5 number of bulls, health, and sanitation.

6 (c) MARKING OR TAGGING.—An authorized officer  
7 shall not impose any marking or tagging requirement in  
8 addition to the requirement under State law.

9 (d) FILING OF CONTROL AGREEMENT AND  
10 BRAND.—A permittee or lessee that controls but does not  
11 own the livestock that graze Federal land shall file with  
12 the authorized officer—

13 (1) the agreement that gives the permittee or  
14 lessee control of the livestock; and

15 (2) the brand and other identifying marks on  
16 the livestock.

17 **SEC. 136. TERMS AND CONDITIONS.**

18 (a) IN GENERAL.—

19 (1) SPECIFICATIONS.—An authorized officer  
20 shall specify in a grazing permit or grazing lease the  
21 kind and number of livestock, the periods of use, the  
22 allotments to be used, and the amount of use (stated  
23 in animal unit months) for each grazing permit or  
24 grazing lease.



(2) AMOUNT OF USE.—The amount of livestock grazing use that is authorized in a grazing permit or grazing lease shall not exceed the livestock carrying capacity of the Federal land concerned, as determined through monitoring and adjusted as necessary under section 114.

(3) CANCELLATION, SUSPENSION, OR MODIFICATION.—A grazing permit or grazing lease shall be subject to cancellation, suspension, or modification for any violation of this title or of any term or condition of the grazing permit or grazing lease.

(b) NO SPECIAL TERMS AND CONDITIONS.—An authorized officer shall not impose any term or condition in a grazing permit or grazing lease other than a term or condition described in subsection (a).

(c) MODIFICATION.—Following careful and considered consultation, cooperation, and coordination with permittees, lessees, and other affected interests, an authorized officer may modify the terms and conditions of a grazing permit or grazing lease if monitoring data show that the grazing use is not meeting the land use plan or management objectives.

#### **SEC. 137. FEES AND CHARGES.**

(a) GRAZING FEES.—

1           (1) BASIC FEE.—The basic fee for each animal  
2     unit month in a grazing fee year shall be equal to  
3     the 3-year average of the total gross value of pro-  
4     duction for livestock, as determined by the National  
5     Agricultural Statistics Service of the Department of  
6     Agriculture in accordance with paragraph (2) on the  
7     basis of economic data published by the Service in  
8     the June Agricultural Survey for the 3 years preced-  
9     ing the grazing fee year, multiplied by .06 and di-  
10    vided by 12.

11           (2) CRITERIA.—

12           (A) IN GENERAL.—The National Agricul-  
13     tural Statistics Service of the Department of  
14     Agriculture shall make a determination under  
15     paragraph (1) based on the following informa-  
16     tion gathered from livestock grazing operators,  
17     with respect to the largest single grazing lease  
18     of each operator (in terms of dollars):

19                   (i) Whether the operator charged—

20                           (I) per acre;

21                           (II) per head per month;

22                           (III) per pound of gain;

23                           (IV) per hundredweight of gain;

24                           or

25                           (V) by another measure,

1 and the rate charged.

2 (ii)(I) The estimated average pounds  
3 gained per season for the grazing lease.

4 (II) The total dollar amount estimated  
5 to be realized from the grazing lease.

6 (III) Grazing lease acreage.

7 (IV) The State and county where the  
8 grazing lease is located.

9 (iii) The classes of livestock grazed.

10 (iv) The term of the grazing lease.

11 (v)(I) Whether grazing lease payments  
12 are paid if no grazing occurred.

13 (II) Whether the grazing lease con-  
14 tains a take or pay provision.

15 (vi) Whether responsibility for the  
16 grazing lease is ensured by daily livestock  
17 care, water supply, or other factors.

18 (B) PRIVATE NATIVE RANGELAND.—For  
19 the purpose of determining rates for grazing  
20 leases of private native rangeland, rates for irri-  
21 gated pasture, crop aftermath, and dryland win-  
22 ter wheat shall be excluded.

23 (3) SURCHARGE.—

24 (A) IN GENERAL.—A surcharge shall be  
25 added to the grazing fee billings for authorized

1 grazing of livestock owned by a person other  
2 than a permittee or lessee unless—

3 (i) the grazing use is made by live-  
4 stock owned by a spouse, son, daughter,  
5 grandson, or granddaughter of the permit-  
6 tee and lessee; or

7 (ii) the operator is unable to make full  
8 grazing use, as authorized by a grazing  
9 permit or grazing lease, due to the age or  
10 death of the primary operator.

11 (B) PAYMENT IN ADVANCE.—A surcharge  
12 shall be paid prior to grazing use.

13 (C) LIVESTOCK OWNED BY OTHERS.—A  
14 surcharge for authorized pasturing of livestock  
15 owned by a person other than a permittee or  
16 lessee shall be equal to 25 percent of the dif-  
17 ference between the current year's Federal  
18 grazing fee and the prior year's private grazing  
19 land lease rate per year for the appropriate  
20 State, as determined by the National Agricul-  
21 tural Statistics Service in accordance with para-  
22 graph (2).

23 (4) PAYMENT.—

1 (A) DUE DATE.—A grazing fee shall be  
2 due on the due date specified in the billing no-  
3 tice.

4 (B) PAYMENT PRIOR TO USE.—A grazing  
5 fee shall be paid prior to grazing use.

6 (C) BILLING AFTER GRAZING SEASON.—If  
7 an allotment management plan provides for bill-  
8 ing after the grazing season, a grazing fee shall  
9 be based on actual grazing use and shall be due  
10 upon issuance.

11 (5) REFUNDS.—

12 (A) IN GENERAL.—A grazing fee may be  
13 refunded if an application for change in grazing  
14 use and related refund is filed prior to the pe-  
15 riod of use for which the refund is requested.

16 (B) FAILURE TO MAKE GRAZING USE.—

17 (i) IN GENERAL.—Except as provided  
18 in subparagraph (B), no refund shall be  
19 made for failure to make grazing use.

20 (ii) RANGE DEPLETION OR DIS-  
21 EASE.—During a period of range depletion  
22 due to drought, fire, or other natural  
23 cause, or in case of a general spread of dis-  
24 ease among the livestock that occurs dur-  
25 ing the term of a grazing permit or graz-

1                   ing lease, an authorized officer may credit  
2                   or refund a grazing fee in whole or in part  
3                   or postpone fee payment for as long as the  
4                   emergency exists.

5           (b) OTHER FEES AND CHARGES.—

6               (1) CROSSING PERMITS, TRANSFERS, AND BILL-  
7               ING NOTICES.—A service charge shall be assessed  
8               for each crossing permit, transfer of grazing pref-  
9               erence, and replacement or supplemental billing no-  
10              tice except in a case in which the action is initiated  
11              by the authorized officer.

12             (2) AMOUNT OF FLPMA FEES AND CHARGES.—  
13             The fees and charges under section 304(a) of the  
14             Federal Land Policy and Management Act of 1976  
15             (43 U.S.C. 1734(a)) shall reflect processing costs  
16             and shall be adjusted periodically as costs change.

17             (3) NOTICE OF CHANGE.—Notice of a change  
18             in a service charge shall be published in the Federal  
19             Register.

20           (c) REPEAL AND SUPERSEDURE.—

21               (1) REPEAL.—Section 6(a) of the Public  
22               Rangelands Improvement Act of 1978 (43 U.S.C.  
23               1905) is repealed.

1           (2) SUPERSEDURE.—This section supersedes  
2       Executive Order 12548 (43 U.S.C. 1905 note) effective  
3       March 1, 1996.

4       (d) APPLICATION OF SECTION.—This section applies  
5       to the management of livestock grazing on Federal land  
6       by the Secretary of Agriculture, acting through the Chief  
7       of the Forest Service, as well as to the Secretary.

8       **SEC. 138. PLEDGE OF GRAZING PERMITS OR GRAZING**  
9               **LEASES AS SECURITY FOR LOANS.**

10       (a) RENEWAL.—A grazing permit or grazing lease  
11       that has been pledged as security for a loan from a lending  
12       agency shall be renewed by the authorized officer for a  
13       period of not to exceed 15 years if—

14           (1) the loan is for the purpose of furthering the  
15       permittee's or lessee's livestock operation;

16           (2) the permittee or lessee has complied with  
17       this title; and

18           (3) renewal would be in accordance with other  
19       applicable laws.

20       (b) EFFECT OF PLEDGE.—The pledging of a grazing  
21       permit or grazing lease as security for a loan from a lend-  
22       ing agency shall not exempt the grazing permit or grazing  
23       lease from this title.

## **Subtitle E—Civil Violations and Failures of Compliance**

### **SEC. 141. CIVIL VIOLATIONS AND FAILURES OF COMPLI- ANCE.**

#### **(a) SCOPE OF SECTION.—**

(1) IN GENERAL.—This section states all of the violations and failures of compliance that pertain specifically to livestock grazing on Federal land that may result in imposition of a sanction described in subsection (c) against a person in the person's capacity as a permittee, lessee, or applicant for a grazing permit or grazing lease.

(2) OTHER VIOLATIONS.—A permittee, lessee, or applicant for a grazing permit or grazing lease that commits a violation relating to Federal land under a law that applies to all persons generally shall be subject to penalty under that law.

(b) IN GENERAL.—A person that does 1 of the following shall be subject to a civil sanction under subsection (c):

(1) Fails to make substantial grazing use as authorized by a grazing permit or grazing lease for 2 consecutive fee years.



1           (2) Places supplemental feed on land covered by  
2 a grazing permit or grazing lease without authoriza-  
3 tion.

4           (3) Fails to comply with a term, condition, or  
5 stipulation of a range improvement cooperative  
6 agreement or range improvement permit.

7           (4) Enters into an unauthorized sublease.

8           (5) Allows livestock or another privately owned  
9 or controlled animal to graze on or be driven across  
10 Federal land—

11           (A) without a grazing permit, grazing  
12 lease, or other grazing use authorization;

13           (B) in violation of a term or condition of  
14 a grazing permit, grazing lease, or other graz-  
15 ing use authorization, including a provision  
16 stating the number of livestock covered by the  
17 authorization;

18           (C) in an area or at a time different from  
19 that authorized; or

20           (D) if the livestock is not identified in  
21 compliance with section 135.

22           (6) Installs, uses, modifies, or removes a range  
23 improvement on Federal land without authorization.

24           (7) Damages or removes Federal Government  
25 property from Federal land without authorization.

1           (8) Molests livestock authorized to graze on  
2 Federal land.

3           (9) Interferes with a lawful grazing use or law-  
4 ful user.

5           (10) Knowingly or willfully makes a false state-  
6 ment or representation in a base property certifi-  
7 cation, grazing application, range improvement per-  
8 mit application, cooperative agreement, or actual use  
9 report, or an amendment thereto.

10           (11) Grazes livestock on Federal land not sub-  
11 stantially in compliance with State livestock require-  
12 ments relating to—

13                   (A) branding, marking, or tagging of live-  
14 stock;

15                   (B) breed, grade, or number of bulls; or

16                   (C) health or sanitation.

17           (c) PENALTIES.—

18           (1) IN GENERAL.—In a case of a violation or  
19 failure of compliance described in subsection (b), an  
20 authorized officer may—

21                   (A) withhold issuance of a grazing permit  
22 or grazing lease for a period of time;

23                   (B) suspend the grazing use authorized  
24 under a grazing permit or grazing lease for a  
25 period of time, in whole or in part; or

(C) cancel a grazing permit or grazing lease and grazing preference, or a free-use grazing permit or other grazing authorization, in whole or in part.

(2) SECOND OR SUBSEQUENT WILLFUL VIOLATION.—In a case of a second or subsequent willful civil violation described in subsection (a), an authorized officer shall—

(A) suspend the grazing use authorized under a grazing permit for a period of time, in whole or in part; or

(B) cancel a grazing permit or grazing lease and grazing preference, in whole or in part.

(3) CONSIDERATION OF SEVERITY.—A determination of the length of time that a grazing permit or grazing lease will be withheld or suspended or that a grazing permit or grazing lease will be canceled shall reflect the severity of the violation or failure of compliance.

(4) REFERRAL FOR ACTION UNDER SUBTITLE F.—If a person other than a permittee or lessee violates subsection (a)(5), and the person has not made satisfactory settlement under section 153, the authorized officer shall refer the matter to proper au-

1       thorities for appropriate legal action by the United  
2       States against the violator under subtitle F.

3               (5) SUBLEASES.—

4               (A) IN GENERAL.—A person who violates  
5       subsection (b)(4) shall be required to pay to the  
6       United States the dollar equivalent value, as de-  
7       termined by the authorized officer, of all com-  
8       pensation received for the sublease that is in ex-  
9       cess of the sum of the established grazing fee  
10      and the cost incurred by the person for the in-  
11      stallation and maintenance of authorized range  
12      improvements.

13              (B) FAILURE TO PAY.—If the dollar equiv-  
14      alent value is not received by the authorized of-  
15      ficer within 30 days of receipt of a final deci-  
16      sion, the grazing permit or grazing lease shall  
17      be canceled.

18              (C)    ADDITIONAL    PENALTY.—Payment  
19      under this paragraph shall be in addition to any  
20      other penalties the authorized officer may im-  
21      pose under this subsection.

22              (6) FAILURE TO USE.—After consultation, co-  
23      operation, and coordination, the authorized officer  
24      may cancel a grazing preference to the extent of fail-  
25      ure to use when a permittee or lessee has failed to

1 make substantial grazing use as authorized for 2  
2 consecutive years.

## 3 **Subtitle F—Unauthorized Grazing** 4 **Use**

### 5 **SEC. 151. LIABILITY FOR DAMAGES.**

6 (a) IN GENERAL.—A person who commits a violation  
7 described in section 141(a)(5) shall be liable in damages  
8 to the United States for—

9 (1) the value of forage consumed by the live-  
10 stock of the person;

11 (2) injury to Federal property caused by unau-  
12 thorized grazing use; and

13 (3) expenses incurred in impoundment and sale  
14 of the person's livestock.

15 (b) NO LIABILITY.—In no circumstances shall a per-  
16 son be liable in damages to the United States for expenses  
17 incurred in impoundment or sale of the person's livestock  
18 if the person did not commit a violation of section  
19 141(a)(5) or if the impoundment or sale was not con-  
20 ducted in accordance with State law.

### 21 **SEC. 152. NOTICE AND ORDER TO REMOVE.**

22 (a) KNOWN OWNER.—

23 (1) SERVICE.—When it appears that a violation  
24 described in section 151 has occurred or is occurring  
25 and the owner of the unauthorized livestock is

1 known, an authorized officer shall serve written no-  
2 tice of unauthorized use and an order to remove live-  
3 stock by a specified date on the owner (or the own-  
4 er's agent of record) by certified mail or personal  
5 delivery.

6 (2) OPPORTUNITY TO RESPOND.—Written no-  
7 tice under paragraph (1) shall allow a specified time  
8 from receipt of notice for the livestock owner to—

9 (A) show that there has been no violation;  
10 or

11 (B) make settlement under section 153.

12 (b) UNKNOWN OWNER.—When it appears that a vio-  
13 lation described in section 151 has occurred or is occur-  
14 ring and neither the owner of the unauthorized livestock  
15 nor an agent of the owner is known, an authorized officer  
16 may immediately proceed to impound the livestock under  
17 section 154.

18 **SEC. 153. SETTLEMENT.**

19 (a) DETERMINATION OF WILLFULNESS.—An author-  
20 ized officer shall determine whether a violation described  
21 in section 151 is a nonwillful, willful, or second or subse-  
22 quent willful violation.

23 (b) SECOND OR SUBSEQUENT WILLFUL VIOLA-  
24 TIONS.—In the case of a second or subsequent willful vio-  
25 lation, the authorized officer shall—

(1) suspend the grazing use authorized under a grazing permit or grazing lease, in whole or in part; or

(2) cancel a grazing permit or grazing lease and grazing preference, or a free-use grazing permit or other grazing authorization, in whole or in part.

(c) SETTLEMENT AMOUNT.—Except as provided in subsection (e), the settlement amount in the case of a violation described in section 151 shall include—

(1) the value of forage consumed as determined under subsection (d);

(2) the full value for all damage to Federal land and other property of the United States resulting from the violation; and

(3) all reasonable expenses incurred by the United States in detecting, investigating, and resolving the violation, and livestock impoundment costs.

(d) VALUE OF FORAGE.—

(1) NONWILLFUL VIOLATION.—In the case of a nonwillful violation, the value of forage consumed shall be the product of—

(A) average monthly rate per animal unit month for pasturing livestock on privately owned land (excluding irrigated land) for the 16

1 western States as published annually by the De-  
2 partment of Agriculture; and

3 (B) the period of the violation.

4 (2) WILLFUL VIOLATIONS.—In the case of a  
5 willful violation, the value of forage consumed shall  
6 be twice the value determined under paragraph (1).

7 (3) SECOND OR SUBSEQUENT WILLFUL VIOLA-  
8 TIONS.—In the case of a second or subsequent will-  
9 ful violation, the value of forage consumed shall be  
10 3 times the value determined under paragraph (1).

11 (e) NONMONETARY SETTLEMENT.—An authorized  
12 officer may approve a nonmonetary settlement of a case  
13 of a violation described in section 151 if the authorized  
14 officer determines that each of the following conditions is  
15 satisfied:

16 (1) NO FAULT.—Evidence shows that the unau-  
17 thorized use occurred through no fault of the live-  
18 stock operator.

19 (2) INSIGNIFICANCE.—The forage use is insig-  
20 nificant.

21 (3) NO DAMAGE.—Federal land has not been  
22 damaged.

23 (4) BEST INTERESTS.—Nonmonetary settle-  
24 ment is in the best interests of the United States.



1 (f) EFFECT OF SETTLEMENT.—Payment of a settle-  
2 ment amount under this section shall not relieve the viola-  
3 tor of any criminal liability under Federal or State law.

4 (g) NO GRAZING USE.—A person who is found to  
5 have committed a violation described in section 151 shall  
6 not be authorized to make grazing use until any settle-  
7 ment amount found to be due under this section has been  
8 paid.

9 (h) OTHER SANCTIONS.—An authorized officer may  
10 cancel or suspend a grazing authorization or deny ap-  
11 proval of an application for grazing use until a settlement  
12 amount found to be due under this section has been paid.

13 **SEC. 154. IMPOUNDMENT AND SALE.**

14 (a) IN GENERAL.—Subject to section 152(b), unau-  
15 thorized livestock remaining on Federal land after the date  
16 specified in a notice and order under section 152(a) may  
17 be impounded and sold by the authorized officer, acting  
18 in conjunction with the State Livestock Board.

19 (b) NOTICE OF INTENT TO IMPOUND.—

20 (1) KNOWN OWNER.—

21 (A) SERVICE.—A written notice of intent  
22 to impound shall be sent by certified mail or  
23 personally delivered to the livestock owner (or  
24 the owner's agent).

1 (B) CONTENTS.—The written notice shall  
2 state that unauthorized livestock on specified  
3 Federal land may be impounded any time after  
4 10 days following delivery of the notice.

5 (2) UNKNOWN OWNER.—

6 (A) PUBLICATION AND POSTING.—If the  
7 livestock owner and owner's agent are unknown,  
8 or if both a known owner and the owner's agent  
9 refuse to accept delivery of notice, a notice of  
10 intent to impound shall be published in a local  
11 newspaper and posted at the county courthouse  
12 and a post office near the Federal land con-  
13 cerned.

14 (B) CONTENTS.—The notice shall state  
15 that unauthorized livestock on specified Federal  
16 land may be impounded any time after 10 days  
17 following publication and posting of the notice.

18 (c) IMPOUNDMENT.—After 10 days following delivery  
19 or publication and posting of a notice under subsection  
20 (b), the notice shall become effective, and unauthorized  
21 livestock may be impounded without further notice any  
22 time within the 12-month period following the effective  
23 date of the notice.

24 (d) NOTICE OF PUBLIC SALE.—

(1) IN GENERAL.—Following the impoundment of livestock under this section, the livestock may be sold by the authorized officer or, if a suitable agreement is in effect, turned over to the State for sale, in accordance with subsection (f).

(2) NOTIFICATION.—Any known livestock owner (or owner's agent) shall be notified in writing by certified mail or by personal delivery of the sale and the procedure by which the impounded livestock may be redeemed prior to the sale.

(e) REDEMPTION.—An owner (or owner's agent) or lienholder of record of impounded livestock may redeem the livestock in accordance with State law, prior to the time of sale upon settlement with the United States under section 153 or adequate showing that there has been no violation.

(f) SALE.—If livestock are not redeemed on or before the date and time fixed for sale, the livestock shall be offered at public sale to the highest bidder by the authorized officer under State law, or by the State.

## **Subtitle G—Procedure**

### **SEC. 161. PROPOSED DECISIONS.**

(a) PROPOSED DECISIONS ON GRAZING PERMITS OR GRAZING LEASES.—

(1) SERVICE ON APPLICANTS, PERMITTEES, LESSEES, AND LIENHOLDERS.—In the absence of a written agreement between an authorized officer and any applicant, grazing permittee, lessee, or lienholder, the authorized officer shall serve, by certified mail or personal delivery, a proposed decision on any applicant, permittee, lessee, or lienholder (or agent of record of the applicant, permittee, lessee, or lienholder) that is affected by—

(A) a proposed action on an application for a grazing permit, grazing lease, or range improvement permit; or

(B) a proposed action relating to a term or condition of a grazing permit, grazing lease, or range improvement permit.

(2) CONTENTS.—A proposed decision described in paragraph (1) shall—

(A) state reasons for the action, including reference to pertinent provision of this title or other applicable law (including regulations); and

(B) state that any protest to the proposed decision must be filed not later than 15 days after service.

(b) PROPOSED DECISIONS ON ALLEGED VIOLATIONS.—

1 (1) SERVICE.—If the authorized officer deter-  
2 mines that a permittee or lessee appears to have vio-  
3 lated any provision of this title, the authorized offi-  
4 cer shall serve a proposed decision on the permittee  
5 or lessee (or permittee's or lessee's agent) by cer-  
6 tified mail or personal delivery.

7 (2) CONTENTS.—A proposed decision shall—

8 (A) state—

9 (i) the alleged violation and refer to  
10 the specific provision of this title that is al-  
11 leged to have been violated;

12 (ii) the reasons for the proposed deci-  
13 sion;

14 (iii) the fee due under section 137(a)  
15 or settlement amount due under section  
16 153; and

17 (iv) any civil penalty to be imposed  
18 under section 141; and

19 (B) state that any protest to the proposed  
20 decision must be filed not later than 15 days  
21 after service.

22 **SEC. 162. PROTESTS.**

23 An applicant, permittee, lessee, or other affected in-  
24 terest may protest a proposed decision under section 161

1 in person or in writing to the authorized officer within  
2 15 days after service of the proposed decision.

3 **SEC. 163. FINAL DECISIONS.**

4 (a) NO PROTEST.—In the absence of a timely filed  
5 protest, a proposed decision shall become the final decision  
6 of the authorized officer without further notice.

7 (b) RECONSIDERATION.—If a protest is timely filed,  
8 the authorized officer shall reconsider the proposed deci-  
9 sion in light of the protestant's statement of reasons for  
10 protest and in light of other information pertinent to the  
11 case.

12 (c) SERVICE.—After reviewing the protest, the au-  
13 thorized officer shall serve a final decision on the parties  
14 to the proceeding.

15 **SEC. 164. APPEALS.**

16 (a) IN GENERAL.—In the case of a final decision of  
17 an authorized officer with respect to which a protest under  
18 section 162 was timely filed, a permittee, lessee, or af-  
19 fected interest may appeal the final decision for the pur-  
20 pose of a hearing before an administrative law judge by  
21 filing a notice of appeal in the office of the authorized  
22 officer within 30 days after the service of the final deci-  
23 sion.

24 (b) SUSPENSION PENDING APPEAL.—

1           (1) IN GENERAL.—An appeal of a final decision  
2 shall suspend the effect of the decision pending final  
3 action on the appeal unless the decision is made ef-  
4 fective pending appeal under paragraph (2).

5           (2) EFFECTIVENESS PENDING APPEAL.—

6           (A) IN GENERAL.—A District Manager of  
7 the Bureau of Land Management may order  
8 that a decision on a grazing permit application  
9 shall remain in effect during an appeal of the  
10 decision if it is determined that imminent and  
11 irreversible damage to land resources would be  
12 likely to result from delay of effectiveness of the  
13 decision.

14           (B) BASIS OF ORDER.—An order under  
15 subparagraph (A) shall be made in accordance  
16 with—

17                   (i) state-of-the-art science;

18                   (ii) information and opinions offered  
19 by State land grant universities; and

20                   (iii) the preponderance of evidence  
21 gathered in the proceeding.

22           (c) EXPEDITIOUS DISMISSAL OF NONMERITORIOUS  
23 APPEALS.—The District Manager shall—

24                   (1) examine each appeal as soon as practicable  
25 after it is filed; and

1           (2) expeditiously dismiss an appeal that does  
2           not raise a substantially meritorious issue.

3           (d) AUTHORITY.—A final decision of an appeal shall  
4           be issued by a District Manager.

## 5       **Subtitle H—Advisory Committees**

### 6       **SEC. 171. PURPOSE.**

7           This subtitle contains standards and procedures for  
8           the establishment, operation, and termination of advisory  
9           committees to advise the Secretary on matters relating to  
10          grazing on Federal land and resources under the adminis-  
11          trative jurisdiction of the Bureau of Land Management.

### 12       **SEC. 172. OBJECTIVE.**

13          The objective of an advisory committee established  
14          under this subtitle is to provide to the Secretary expert  
15          recommendations of concerned, knowledgeable citizens  
16          and public officials regarding—

17               (1) the formulation of operating guidelines; and

18               (2) the preparation and execution of plans and  
19          programs for the use and management of Federal  
20          land, the natural and cultural resources on Federal  
21          land, and the environment.

### 22       **SEC. 173. RELATION TO OTHER LAW.**

23          Except to the extent that the following laws may be  
24          inconsistent with this subtitle, the following laws shall



1 apply to an advisory committee established under this sub-  
2 title:

3 (1) The Federal Advisory Committee Act (5  
4 U.S.C. App.).

5 (2) The Federal Land Policy and Management  
6 Act of 1976 (43 U.S.C. 1701 et seq.).

7 (3) Section 2 of Reorganization Plan No. 3 of  
8 1950 (5 U.S.C. App.).

9 **SEC. 174. POLICY.**

10 (a) IN GENERAL.—After consultation, cooperation,  
11 and coordination with State and local government officials,  
12 the Secretary shall establish advisory committees rep-  
13 resentative of major citizens' interests to advise the Sec-  
14 retary regarding policy formulation, program planning,  
15 decisionmaking, attainment of program objectives, and  
16 achievement of improved program coordination and econo-  
17 mies in the management of Federal land and resources.

18 (b) OPTIMAL EMPLOYMENT.—The Secretary shall  
19 ensure that—

20 (1) advisory committees are optimally utilized;  
21 and

22 (2) the number of advisory committees is lim-  
23 ited to the number that is essential to the conduct  
24 of the public's business.

1 **SEC. 175. GENERAL PROVISIONS.**

2 (a) CHARTERS.—

3 (1) IN GENERAL.—For each advisory committee  
4 established by the Secretary, the Secretary shall—

5 (A) prepare a charter describing the advisory  
6 committee's structure and functions; and

7 (B) file the charter with the Committee on  
8 Energy and Natural Resources of the Senate  
9 and the Committee on Resources of the House  
10 of Representatives.

11 (2) AMENDMENT.—Except for the correction of  
12 errors and other minor changes, a charter filed  
13 under paragraph (1) shall not be amended without  
14 authorization by an Act of Congress.

15 (b) CALLS FOR NOMINATIONS.—Candidates for ap-  
16 pointment to an advisory committee shall be sought  
17 through public calls for nominations made through publi-  
18 cation in the Federal Register and through media releases  
19 and systematic contacts with State and local government  
20 officials and individuals and organizations interested in  
21 the use and management of Federal land and resources.

22 (c) COMPOSITION.—

23 (1) STRUCTURE.—An advisory committee shall  
24 be structured—

25 (A) to provide fair membership balance  
26 (geographic and interest-specific) in terms of

1 the functions to be performed and points of  
2 view to be represented, as prescribed by the ad-  
3 visory committee's charter; and

4 (B) to provide representative advice about  
5 Federal land and resource planning, retention,  
6 management, and disposal.

7 (2) NO DISCRIMINATION.—No person shall be  
8 denied an opportunity to serve on an advisory com-  
9 mittee because of race, age, sex, religion, or national  
10 origin.

11 (3) QUALIFICATIONS.—A person shall be quali-  
12 fied to serve on an advisory committee if—

13 (A) the person's education, training, or ex-  
14 perience enables the person to give informed  
15 and objective advice regarding an industry, dis-  
16 cipline, or interest specified in the committee's  
17 charter;

18 (B) the person has demonstrated experi-  
19 ence or knowledge of the geographical area  
20 under the purview of the advisory committee;  
21 and

22 (C) the person has demonstrated a com-  
23 mitment to seeking consensus solutions to re-  
24 source management issues.

25 (d) AVOIDANCE OF CONFLICTS OF INTEREST.—

(1) PARTICIPATION IN DELIBERATIONS.—An advisory committee member shall not participate in deliberations or vote on any matter if the decision of the matter would, on its face or as applied, affect only an interest held by that member and not the interests of permittees, lessees, or other affected interests generally.

(2) DISCLOSURE OF INTERESTS.—

(A) IN GENERAL.—Each member of an advisory committee shall be required to disclose the member's direct or indirect interest in grazing leases, licenses, permits, contracts, or claims and related litigation that involve lands or resources administered by the Secretary.

(B) DEFINITION.—In this paragraph, the term "indirect interest" includes holdings of a spouse or dependent children of a member.

(e) TERMINATION OF SERVICE.—The Secretary may, after written notice, terminate the service of a member of an advisory committee if—

(1) the member—

(A) no longer meets the requirements under which elected or appointed;

(B) fails or is unable to participate regularly in committee work; or

1 (C) has violated Federal law (including a  
2 regulation); or

3 (2) in the judgment of the Secretary, termi-  
4 nation is in the public interest.

5 (f) COMPENSATION AND REIMBURSEMENT OF EX-  
6 PENSES.—A member of an advisory committee shall not  
7 receive any compensation or reimbursement of expenses  
8 in connection with the performance of the member's duties  
9 as a member of the advisory committee.

#### 10 **SEC. 176. RESOURCE ADVISORY COUNCILS.**

11 (a) RESOURCE ADVISORY COUNCIL FOR EACH GRAZ-  
12 ING DISTRICT.—The Secretary, after consultation, co-  
13 operation, and coordination with the State and affected  
14 counties, shall appoint not fewer than 9 nor more than  
15 15 persons to serve on a resource advisory council for each  
16 grazing district.

17 (b) MEMBERSHIP.—

18 (1) REPRESENTATION OF INTERESTS.—The  
19 members of a resource advisory council shall be se-  
20 lected from among persons that represent historical  
21 use, multiple uses, affected landowners, county social  
22 and economic interests, elected State and county of-  
23 ficers, and the public at large.

1           (2) PERMITTEES AND LESSEES.—Permittees  
2       and lessees may be appointed to serve on a resource  
3       advisory council.

4           (3) RESIDENCY.—Members of a resource advi-  
5       sory council shall be residents of the State in which  
6       the grazing district is situated.

7           (4) TERMS.—

8                (A) IN GENERAL.—A member of a re-  
9       source advisory council shall serve a 3-year  
10      term, except that as nearly as possible one-third  
11      of the initial members shall be appointed for a  
12      1-year term and one-third of the initial mem-  
13      bers shall be appointed for a 2-year term.

14            (B) MEMBERS EX OFFICIO.—On the de-  
15      parture from elective office of a member of a  
16      resource advisory council who was appointed on  
17      the basis of the member's status as an elected  
18      official of general purpose government serving  
19      the people of the grazing district for which the  
20      resource advisory council is established prior to  
21      the end of the member's term, the newly elected  
22      official shall serve the remainder of the mem-  
23      ber's term.

24            (C) VACANCIES.—A vacancy occurring by  
25      reason of removal, resignation, or death of a

1 member of a resource advisory council shall be  
2 filled for the balance of the member's term  
3 using the same method by which the member  
4 was appointed.

5 (D) REAPPOINTMENT.—

6 (i) SECOND CONSECUTIVE TERM.—A  
7 member of a resource advisory council who  
8 has served a 3-year term on a resource ad-  
9 visory council may be reappointed to a sec-  
10 ond consecutive 3-year term.

11 (ii) SUBSEQUENT TERM.—A member  
12 of a resource advisory council who has  
13 served 2 consecutive 3-year terms may be  
14 subsequently reappointed no earlier than 3  
15 years after the member's last date of mem-  
16 bership on that resource advisory council,  
17 except that the Secretary may reappoint  
18 the member to a 1-year term if the Sec-  
19 retary determines that the member's con-  
20 tinued or renewed service on the resource  
21 advisory council is in the public interest  
22 and is critical to the effective functioning  
23 of the resource advisory council.

24 (E) DATE OF APPOINTMENT.—For the  
25 purpose of eligibility for reappointment under

1           subparagraph (C) or (D), an appointment shall  
2           be considered to be made on January 1 of the  
3           first year of the term to which a member is ap-  
4           pointed regardless of the date on which the ap-  
5           pointment is actually made.

6       (c) RESPONSIBILITIES.—

7           (1) IN GENERAL.—A resource advisory council  
8           shall have the responsibility of advising the Sec-  
9           retary and appropriate State officials on major man-  
10          agement decisions while working within the broad  
11          management goals established for the grazing dis-  
12          trict.

13          (2) LAND USE PLANS.—A resource advisory  
14          council shall advise the Secretary regarding the  
15          preparation, amendment, and implementation of  
16          land use plans for Federal land and resources within  
17          the grazing district.

18          (3) ALLOCATION AND EXPENDITURE OF  
19          FUNDS.—Except for the purposes of long-range  
20          planning and the establishment of resource manage-  
21          ment priorities, a resource advisory council shall not  
22          provide the Secretary advice regarding—

23                (A) the allocation or expenditure of funds;

24                or

25                (B) personnel actions.



(d) DISREGARD OF ADVICE.—

(1) REQUEST FOR RESPONSE.—If a resource advisory council becomes concerned that its advice is being arbitrarily disregarded, the resource advisory council may, by unanimous vote of its members, request that the Secretary respond directly to the resource advisory council's concerns within 60 days after the Secretary receives the request.

(2) EFFECT OF RESPONSE.—The response of the Secretary to a request under paragraph (1) shall not—

(A) constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal; or

(B) be subject to appeal.

(e) ADMINISTRATIVE SUPPORT.—Administrative support for a resource advisory council shall be provided by the office of the authorized officer.

#### **SEC. 177. GRAZING ADVISORY COUNCILS.**

(a) GRAZING ADVISORY COUNCIL FOR EACH GRAZING DISTRICT.—The Secretary, in consultation with the State and affected counties, shall appoint not fewer than 5 nor more than 9 persons to serve on a grazing advisory council for each grazing district.

(b) MEMBERSHIP.—

1           (1) REPRESENTATION OF INTERESTS.—The  
2       members of a grazing advisory council shall be se-  
3       lected from among persons that represent permit-  
4       tees, lessees, affected landowners, county social and  
5       economic interests, and elected State and county of-  
6       ficers.

7           (2) PERMITTEES AND LESSEES.—Permittees  
8       and lessees shall constitute the majority of the mem-  
9       bership of a grazing advisory council.

10          (3) RESIDENCY.—Members of a grazing advi-  
11       sory council shall be residents of a community within  
12       or adjacent to the grazing district.

13          (4) TERMS.—An appointment to a grazing ad-  
14       visory council shall be for a 2-year term.

15          (5) REAPPOINTMENT.—A member of a grazing  
16       advisory council may be appointed to additional  
17       terms.

18       (c) RESPONSIBILITIES.—A grazing advisory council  
19       shall set range improvement objectives, advise on the ex-  
20       penditure of range improvement funds under the Public  
21       Rangelands Improvement Act of 1978 (43 U.S.C. 1901  
22       et seq.), advise on grazing management programs and im-  
23       plementation, and address range management decisions  
24       and actions at the allotment management plan level or  
25       permit management plan level.

1 (d) DISREGARD OF ADVICE.—

2 (1) REQUEST FOR RESPONSE.—If a grazing ad-  
3 visory council becomes concerned that its advice is  
4 being arbitrarily disregarded, the grazing advisory  
5 council may, by unanimous vote of its members, re-  
6 quest that the Secretary respond directly to the  
7 grazing advisory council's concerns within 60 days  
8 after the Secretary receives the request.

9 (2) EFFECT OF RESPONSE.—The response of  
10 the Secretary to a request under paragraph (1) shall  
11 not—

12 (A) constitute a decision on the merits of  
13 any issue that is or might become the subject  
14 of an administrative appeal; or

15 (B) be subject to appeal.

16 **SEC. 178. MEETINGS.**

17 (a) IN GENERAL.—All meetings of an advisory com-  
18 mittee and associated field examinations shall be open to  
19 the public and news media.

20 (b) NOTICE OF MEETINGS.—

21 (1) IN GENERAL.—A notice of a meeting of an  
22 advisory committee shall be published in the Federal  
23 Register and distributed to the news media at least  
24 30 days in advance of the meeting.

1           (2) URGENT MATTERS.—If an urgent matter  
2 arises, a notice of a meeting of an advisory commit-  
3 tee shall be published in the Federal Register and  
4 distributed to the news media at least 15 days in ad-  
5 vance of the meeting.

6           (3) CONTENTS.—A notice of a meeting of an  
7 advisory committee shall state the date, time, and  
8 place of the meeting and describe the topics or is-  
9 sues to be discussed at the meeting.

10          (c) APPEARANCES.—Any person may appear before  
11 or file a statement with an advisory committee regarding  
12 matters on the meeting agenda.

13          (d) SCHEDULING.—The scheduling of meetings of an  
14 advisory committee and the preparation of agenda shall  
15 be done in a manner that encourages and facilitates public  
16 attendance and participation.

17          (e) EXTENSION OF TIME.—The amount of time  
18 scheduled for a meeting of an advisory committee may be  
19 extended if an authorized officer considers it necessary to  
20 accommodate all who seek to be heard regarding matters  
21 on the agenda.

22          (f) AUTHORITY TO SCHEDULE.—An advisory com-  
23 mittee shall meet only at the call of the Secretary or of  
24 an authorized officer.

1 (g) ATTENDANCE BY AUTHORIZED OFFICER.—No  
2 meeting of an advisory committee shall be held in the ab-  
3 sence of an authorized officer or designee of an authorized  
4 officer.

5 (h) AGENDA.—A meeting of an advisory committee  
6 shall be conducted with close adherence to the agenda ap-  
7 proved in advance by an authorized officer.

8 (i) ADJOURNMENT.—An authorized officer may ad-  
9 journ a meeting of an advisory committee at any time if—

10 (1) continuance would be inconsistent with the  
11 purpose for which the meeting was called or with the  
12 rules established for the conduct of the advisory  
13 committee; or

14 (2) adjournment is determined to be in the pub-  
15 lic interest.

16 (j) RECORDS.—

17 (1) IN GENERAL.—Detailed records shall be  
18 kept of each meeting of an advisory committee.

19 (2) REQUIREMENTS.—The records of a meeting  
20 of an advisory committee shall include, at a mini-  
21 mum—

22 (A) the time and place of the meeting;

23 (B) copies of the Federal Register and  
24 other public notices announcing the meeting;

1 (C) a list of members of the advisory com-  
2 mittee and of Federal employees (in the capac-  
3 ity of Federal employee) present;

4 (D) a list of members of the public  
5 present, and a description of the interest rep-  
6 resented by each member;

7 (E) the meeting agenda;

8 (F) a complete summary description of  
9 matters discussed and conclusions reached;

10 (G) a list of recommendations made by the  
11 advisory committee;

12 (H) copies of all reports received, issued,  
13 or approved by the advisory committee; and

14 (I) a description of the nature of public  
15 participation.

16 (3) CERTIFICATION BY CHAIRPERSON.—The  
17 Chairperson of an advisory committee shall certify  
18 the accuracy of the records of the advisory commit-  
19 tee.

20 (4) AVAILABILITY FOR INSPECTION AND COPY-  
21 ING.—All records, reports, transcripts, minutes, rec-  
22 ommendations, studies, working papers, and other  
23 documents prepared by or submitted to an advisory  
24 committee shall be available for public inspection

and copying in the Federal office responsible for support of the advisory committee.

(k) SUBCOMMITTEES.—Each of the requirements of this section that applies to an advisory committee applies to any subcommittee of an advisory committee.

#### **SEC. 179. CONFORMING AMENDMENT AND REPEAL.**

(a) AMENDMENT.—The third sentence of section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)) is amended by striking “district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753)” and inserting “grazing advisory councils established under section 177 of the Livestock Grazing Act”.

(b) REPEAL.—Section 403 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753) is repealed.

## **Subtitle I—Reports**

#### **SEC. 181. REPORTS.**

(a) IN GENERAL.—Not later than March 1, 1997, and annually thereafter, the Secretary shall submit to Congress a report that contains—

(1) an itemization of revenues received and costs incurred directly in connection with the management of grazing on Federal land; and

1           (2) recommendations for reducing administra-  
2       tive costs and improving the overall efficiency of  
3       Federal rangeland management.

4       (b) ITEMIZATION.—If the itemization of costs under  
5       subsection (a)(1) includes any costs incurred in connection  
6       with the implementation of any law other than a statute  
7       cited in section 102, the Secretary shall indicate with spec-  
8       ificity the costs associated with implementation of each  
9       such statute.

10       (c) SUSPENSION OF IMPLEMENTATION OF OTHER  
11       LAW IN ABSENCE OF REPORT.—During any period in  
12       which a report due to be submitted under subsection (a)  
13       has not been submitted in accordance with the require-  
14       ments of this section, the Secretary shall conduct livestock  
15       grazing management on Federal land without regard to  
16       any law other than a statute cited in section 102.

## 17                   **TITLE II—GRASSLAND**

### 18       **SEC. 201. REMOVAL OF GRASSLANDS FROM NATIONAL FOR-** 19                   **EST SYSTEM.**

20       (a) FINDINGS.—Congress finds that the inclusion of  
21       the National Grasslands (and land utilization projects ad-  
22       ministered under title III of the Bankhead-Jones Farm  
23       Tenant Act) within the National Forest System constrains  
24       the Secretary of Agriculture in managing the National



1 Grasslands as intended under title III of the Bankhead-  
2 Jones Farm Tenant Act (7 U.S.C. 1010 et seq.).

3 (b) AMENDMENT OF THE FOREST AND RANGELAND  
4 RENEWABLE RESOURCES PLANNING ACT OF 1974.—Sec-  
5 tion 11(a) of the Forest and Rangeland Renewable Re-  
6 sources Planning Act of 1974 (16 U.S.C. 1609(a)) is  
7 amended in the second sentence by striking “the national  
8 grasslands and land utilization projects administered  
9 under title III of the Bankhead-Jones Farm Tenant Act  
10 (50 Stat. 525, 7 U.S.C. 1010–1012),”.

11 (c) AMENDMENT OF THE BANKHEAD-JONES FARM  
12 TENANT ACT.—Section 31 of the Bankhead-Jones Farm  
13 Tenant Act (7 U.S.C. 1010) is amended by adding the  
14 following:

15 **“SEC. 31. LAND CONSERVATION AND LAND UTILIZATION.**

16 **“(a) PROGRAM.—**

17 **“(1) IN GENERAL.—**To accomplish the purposes  
18 of the Livestock Grazing Act, the Secretary shall de-  
19 velop a program of land conservation and utilization  
20 as a basis for grassland agriculture, to promote se-  
21 cure occupancy and economic stability of farms, and  
22 thus assist in controlling soil erosion, preserving nat-  
23 ural resources, protecting fish and wildlife, develop-  
24 ing and protecting recreational facilities, mitigating  
25 flood damage, preventing impairment of dams and

1       reservoirs, developing energy resources, protecting  
2       the watersheds of navigable streams, conserving sur-  
3       face and subsurface moisture, and protecting public  
4       land, health, safety and welfare.

5           “(2) LIMITATION.—In carrying out paragraph  
6       (1), the Secretary shall not build an industrial park  
7       or establish a private industrial or commercial enter-  
8       prise.

9           “(b) LIVESTOCK GRAZING LEASES.—The Secretary,  
10      in cooperation and coordination with grazing associations,  
11      shall issue renewable livestock grazing leases to achieve  
12      the land conservation and utilization goals of this sec-  
13      tion.”.

14          “(d) CONSERVATION PROGRAMS.—In managing live-  
15      stock grazing on National Grasslands under title I, the  
16      Secretary of the Interior may continue to establish and  
17      implement conservation programs authorized by title III  
18      the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010 et  
19      seq.).

**BRIEFING PAPER ON H.R. 1713  
LIVESTOCK GRAZING ACT**

**SUMMARY**

H.R. 1713 was introduced by Representative Wes Cooley along with Chairman Young, Mr. Hansen, Mr. Roberts, Mr. Herger, Mr. Doolittle, Mr. Stump, Mr. Calvert, Mr. Emerson, Mr. Hayworth, Mr. Taylor of North Carolina, Mr. Nethercutt, Mr. Shadegg, Mr. Lewis of California, Mr. Riggs, Mr. Bunn, Mr. Skeen, Mr. Stockman, Mr. Hunter, Mr. Brewster, Mrs. Cubin, Mr. Radanovich, Mr. Cremeans, Mr. Crapo, Mr. Hefley, Mr. Allard, and Mrs. Vucanovich.

**BACKGROUND**

On March 25, 1994, the Department of the Interior published proposed regulations governing grazing on lands administered by the Bureau of Land Management (58 Fed. Reg. 14314). The proposed rules were the subject of an initial 120-day comment period that was scheduled to close on July 28, 1994. The comment period was extended to run through September 9, 1994. Numerous public meetings were held by the Department on the proposed regulations.

No House hearings were held, but a series of Senate hearings were held by the Senate Committee on Energy and Natural Resources on the proposed regulations in Washington, D.C. on April 20, 1994; in Albuquerque, New Mexico on May 14, 1994; in Twin Falls, Idaho on July 8, 1994; in Richfield, Utah on July 11, 1994; and in Casper, Wyoming on July 15, 1994.

Final grazing regulations were promulgated by the Department on February 22, 1995. As a result of an informal agreement reached with several members of Congress, the regulations will not take effect until August 21, 1995.

**Summary of Grazing Regulations**

Major elements of the Administration's grazing regulations are summarized below.

**Resource Advisory Councils**

Public involvement in the rangeland management process is allowed through Resource Advisory Councils (RACs), to be created under the rules to seek input on land use planning and public lands management issues. The RACs will consist of 10-15 members, appointed by the Secretary from three categories: 1) public land users, such as ranchers and miners; 2) environmental or conservation group members; and 3) locally elected officials, academics, Indian tribe members, and the public at large. The RACs must operate on the basis of

consensus. Even though holders of grazing permits and leases can be RAC members, no member can participate in a specific issue in which he or she has a direct financial interest.

On a related matter, the regulations change the term "affected interest" to "interested public" to allow any interested party or person to participate in the decisionmaking process for the management of livestock grazing on the public lands.

### **Hearing and Appeal Procedures**

Under the final rules, the decision of an authorized officer must be appealed within 30 days. Appellants wishing to stay a decision pending appeal must file a petition for a stay along with the appeal. The Office of Hearings and Appeals will have 45 days following the 30 days to grant or deny the stay. If a stay is granted, the decision is stayed until the appeal is determined. Authorized officers have the authority to make final decisions and have them take immediate effect because of unusual circumstances (e.g., drought, fire, flood, insect infestation or continued grazing that poses an imminent likelihood of significant resource damage.)

### **Standards and Guidelines**

The rules require State or regional standards and guidelines to be developed to provide specific measures for rangeland health and to identify acceptable or best management practices. The rules establish fundamental principles regarding rangeland health, such as those relating to watersheds, wetlands, soil and plant conditions, and water quality and quantity; ecological processes, including the hydrologic and nutrient cycles; and maintenance and restoration of threatened or endangered plant or animal habitat. These will be developed with the participation and in consultation with the RACs, Indian tribes, and responsible federal agencies.

### **Grazing Permits or Leases**

Grazing permits will be issued for 10-year terms, which is current law.

### **Grazing Fees**

The proposed rule included increased in the grazing fee and modifications to the fee formula. However, fee increases and changes were not included in the final rule, and the Administration has not made budget assumptions for FY 1996 for grazing fees under the regulations.

### **Water Rights and Range Improvements**

The final regulations do not purport to establish any new federal reserved water rights and do not affect valid existing rights. However, to the extent allowed by State law, new water rights on public lands for livestock watering on such lands will be acquired, perfected, maintained and administered in the name of the United States. This will apply to future

filings. The regulations allow co-application and joint ownership of water rights on BLM lands for livestock watering, to the extent consistent with State law.

After the effective date of the regulations, the United States will retain title to permanent range improvements on BLM lands, such as fences, stock tanks, pipelines and water improvement projects, and the permittee or lessee will hold title to removable range improvements such as corrals, feeders, and loading chutes, and to temporary improvements such as troughs for hauled water. Title improvements authorized prior to the effective date of the regulations will not be affected.

### **Conservation Use and Suspended Nonuse**

The regulations enable grazing permittees and lessees to use all or a portion of their allotment for conservation use, so long as it is consistent with BLM's land use plans. Grazing fees will not be charged on allotments devoted to conservation use; however, permittees and allottees will be required to maintain existing improvements so they will be in good working order when the allotment is returned to actual use.

### **Subleasing**

The rules provide for a surcharge to be assessed for authorized pasturing agreements, i.e., the situation where a permittee pastures another person's livestock on federal lands. The surcharge will be 35 percent of the difference between the federal grazing fee and the private grazing rate in the applicable State. A permittee's children will be exempt from the surcharge.

### **Purpose and Provisions of H.R. 1713**

Based on concerns with the sweeping nature of the new Interior Department grazing management regulations put forward by Secretary Bruce Babbitt, several Western members of Congress undertook the preparation of legislation that would codify previous BLM grazing regulations, as well as elements of the new rules, into law. Key elements of this "hybrid" approach as embodied in H.R. 1713, are as follows.

### **Resource Advisory Councils**

H.R. 1713 would retain many of the features of the grazing regulations regarding RACs, but make several changes, including: setting membership at 9-15 members; requiring RACs for each grazing district; having members come from persons representing historical use, multiple uses, affected landowners, county social and economic interests, elected State and local officials, and the public at large. The bill would also require the creation of grazing advisory councils for each grazing district, with each council consisting of 5-9 members.

## Appeals

Although H.R. 1713 as introduced, allowed final decisions to be appealed to the BLM District Manager, it is the intention of the Committee to change the bill prior to mark-up to accomplish the following: 1) allow appeals of decisions regarding grazing on BLM-administered lands to be taken to the Interior Department's Office of Hearings and Appeals (OHA); 2) require that a hearing be conducted according to the Administrative Procedure Act; 3) allow interested citizens the opportunity to appear as "amici curiae" (friends of the court), if deemed appropriate; and 4) require the District Manager to quickly forward an appeal to OHA and OHA to promptly decide whether the District Manager's decision should be stayed pending appeal.

## Standards and Guidelines

The bill would require the Secretary to establish standards and guidelines on a State or regional level in conjunction with the State department of agriculture or other agency. The bill also makes clear that minimum national standards or guidelines are not necessary. Livestock grazing is to be managed under multiple use principles and in accordance with land use plans, which are to be prepared according to the National Environmental Policy Act (NEPA). Grazing activities and management actions will not require consideration under NEPA in addition to NEPA documentation supporting a land use plan. Only land use plans would need to comply with NEPA.

## Grazing Permits and Leases

The bill would extend the term for grazing permits and leases from 10 to 15 years.

## Grazing Fees

The bill would establish a gross return grazing fee formula based on a three-year rolling average of the total gross value of production of livestock, as determined by the National Agricultural Statistics Service, multiplied by 6 percent and divided by 12. For 1992, the gross value equaled \$431. Thus, the fee would be calculated as follows:  $\$431 \times .06 = \$25.86$ ;  $\$25.86 / 12 = \$2.16$ . The grazing fee per animal unit month (AUM) for 1993 would be \$2.16.

Because of concerns raised in the Senate hearing on the LGA, the Committee intends to direct the Economic Research Service of the Department of Agriculture, and not the National Agriculture Statistics Service to collect the data on gross value of production.

The definition of "animal unit month" for billing purposes and not stocking rates has been changed from sheep-cow ratio (5:1) to a sheep-cow ratio (7:1).

**Water Rights and Range Improvements**

H.R. 1713 provides that no water rights can be acquired, perfected, owned, controlled, maintained, administered or transferred in connection with livestock grazing except in accordance with State law concerning use and appropriation. The bill does not create a federal reserved water right, and requires the Secretary to follow State law with regard to water ownership.

As for range improvements, H.R. 1713 authorizes the Secretary to enter into cooperative agreements with permittees and lessees for the construction, installation, modification, maintenance, or use of permanent range improvements, on a cost-sharing basis with the U.S. Subject to valid existing rights, title to permanent improvements is proportional, depending on the contribution to initial costs.

**ADMINISTRATION POSITION**

The Administration is opposed to this bill. Mike Dombeck, Acting Director of the BLM and Jack Ward Thomas, Chief of the Forest Service testified in opposition to the S. 852, the Livestock Grazing Act in the Senate. The overriding reason given for their opposition is that they feel the bill limits public involvement in the management of the public lands.

STAFF CONTACT: Bill Simmons, x67736

## STATEMENT OF

JACK WARD THOMAS, CHIEF

FOREST SERVICE  
UNITED STATES DEPARTMENT OF AGRICULTUREBefore the  
Committee on Resources  
Subcommittee on National Parks, Forests and Lands  
United States HouseConcerning H.R. 1713, Uniform Management of Livestock Grazing

July 11, 1995

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

We appreciate the opportunity to provide the views of the Department of Agriculture concerning H.R. 1713, a bill to provide for uniform management of livestock grazing on federal lands.

The Department of Agriculture does not support enactment of H.R. 1713 as it affects this Department.

Only two provisions in this bill affect programs under the jurisdiction of the Secretary of Agriculture: Title I, Section 137, concerning grazing fees, and Title II, Section 201, which would remove national grasslands from the National Forest System. We defer to the Secretary of the Interior concerning other provisions of the bill. However, we would have serious concerns should the provisions of Title I be amended to include lands managed by the Forest Service.



Grazing Fee Formula Revision

Title I, Section 137, would replace the current grazing fee calculation formula and require the National Agricultural Statistics Service to collect certain data and calculate grazing costs.

While we concur that the present system for determining grazing fees on federal lands might be improved, it is not clear how this legislation would accomplish such improvement.

The bill as written would include National Forest System lands in our Eastern and Southern Regions. These regions currently have a fee system which is separate from that used in the 16 western states. Changing the fee system for the Eastern and Southern Regions would unnecessarily disrupt a system which has been successfully used for many years, and may have unintended PAYGO implications.

Such a change would also negatively affect the ability to fund needed range improvements in these regions since they do not have access to range betterment funds as do the 16 western states. If a change in fee systems is made, we recommend that the Eastern and Southern Regions be excluded from such change and continue to be governed by provisions in 36 CFR 222, Subpart C.

We defer to the National Agricultural Statistics Service and Economic Research Service concerning the technical aspects of fee determinations in H.R. 1713.

### National Grasslands

Title II, Section 201(b) would remove the national grasslands and land utilization projects (LUPs) from the "National Forest System" as that term is defined in the Forest and Rangeland Renewable Resources Planning Act of 1974.

Section 201(c) would amend Section 31 of the Bankhead-Jones Farm Tenant Act (BJFTA) by requiring that the Secretary develop a program of land conservation and utilization "as a basis for grassland agriculture, to promote secure occupancy and economic stability of farms. . ." which would in turn assist in reaching a number of other resource management objectives.

Section 201(c) would also require the Secretary to issue renewable livestock grazing leases in "cooperation and coordination with grazing associations" in order to achieve the land conservation and utilization goals of section 31 of the BJFTA.

Finally, Section 201(d) would authorize the Secretary of the Interior to continue to establish and implement conservation programs in administering livestock grazing on national grasslands under Title I.

We object to the removal of the national grasslands and LUP's from the National Forest System. The inclusion of the national grasslands in the National Forest System in 1974 reflects the evolution of federal conservation policy over many years. This action gave the national grasslands equal status with the national forests. At the same time, the original legislative intent which gave birth to the national grasslands was preserved. Current Department regulations require that "the National Grasslands shall be a part of the National Forest System and permanently held by the Department of Agriculture for administration under the provisions and purposes of title III of the Bankhead-Jones Farm Tenant Act."

The national grasslands had their origin in the "Dust Bowl" era of the 1930's. These native grasslands were homesteaded and farmed under previous federal policy which encouraged such use, but ultimately proved unsustainable. The unintended consequences of massive soil erosion and deterioration of the grasslands led to passage of the Bankhead-Jones Farm Tenant Act. This act provided for the retirement of submarginal land and required the Secretary of Agriculture to develop a program of land conservation and utilization to correct maladjustments in land use. Since then, federal agencies, in close partnership with livestock producers in particular, have worked to improve grassland productivity for a variety of multiple uses.

The national grasslands rose from the dust of worn-out land and impoverished and abandoned farms. Due to the natural resiliency of the grasslands and federal agency stewardship, the land again supports healthy ecosystems with diverse wildlife and other values. This represents the healing of a near environmental disaster. That the grasslands have recovered and become part of the National Forest System reflects a resounding success story in American conservation.

As the condition of the grasslands has improved and more coherent landownership patterns have developed through land adjustment programs, their value as public resources has increased along with public interest in their management. The national grasslands provide many natural resources, including wildlife habitat, outdoor recreation opportunities, and minerals, as well as important livestock forage.

The national grasslands are important public resources on par with other federal lands, and worthy of the same protections and considerations as apply to the National Forests. They do merit special management approaches and techniques, some of which vary from those employed on the national forests. A number of those differences are already recognized in current agency direction. We believe it is timely to thoroughly explore current approaches to administering the grasslands to see if changes need to be made to fit today's circumstances. The fact that we are discussing

Title II of the bill before us today is a clear indication of the need to take this look.

A key part of considering any changes is close involvement of those most directly affected by national grassland management. We remain committed to the principle that successful management requires a high degree of coordination and cooperation with individuals, organizations, and local, state, and federal agencies.

This process has started with a review of options for grasslands administration that was undertaken earlier this year. Several options were outlined and recommendations were made to me, but final determinations have not been made. We would be pleased to work with the Committee to ensure that concerns you may have are addressed as we consider these recommendations.

We do not concur that present concerns over the prominence and effectiveness of national grasslands management would be resolved by removing them from the National Forest System or changing management objectives. We are taking steps to make full use of existing administrative authorities and processes to address these concerns. For example, the coordinated plan revision process initiated by three Forest Service units in the northern Great Plains is one such step.

Title II would call for a program of "dominant-use" management separate from that currently required by the National Forest Management Act (NFMA). We are unable to discern a significant improvement or meaningful advantage to such an approach. In fact, such a change may undercut the integrated planning approach and opportunities for public involvement under NFMA. Title II would complicate compliance with statutes such as the National Environmental Policy Act, Endangered Species Act, Clean Water Act, and others that would still apply. Additionally, creating separate, duplicate processes for grasslands does not appear cost-effective.

While the precise effects of Title II are difficult to determine because of certain ambiguous and undefined terminology, e.g., "promote secure occupancy and economic stability of farms," and, "cooperation and coordination," it is safe to say that these provisions would result in ever more debate, controversy, and litigation as to their meaning.

Other unanswered questions remain, such as the effect on the oil, gas, and coal industries which are extremely important on many grasslands and to their surrounding communities. Implications for the more than 300 grazing permit holders who are not members of grazing associations are unclear.

It is not clear how well the legislation fits nearly 4 million acres of grasslands located in 12 different states scattered from Texas to North Dakota, and also located in California, Idaho, and Oregon. Such questions need to be addressed.

Mr. Chairman, that concludes my prepared statement and I would be pleased to respond to questions from the subcommittee.

Several unanswered questions and unresolved issues exist with the language as written. For example, some important terms, such as "gross value of production" are not defined. We are also unable to determine the connection between the fee to be charged and the data which would be required to be collected, or if the data apply to public or private grazing. We are concerned that the language, as written, would lead to yet another grazing fee study, perhaps on an annual basis. This would lead to additional debate on the validity of studies, much as has been the case in the past.

There may also be a need to clarify agency responsibilities to avoid duplication. As written, the National Agriculture Statistics Service (NASS) would be responsible for collecting the specified data, but the Economic Research Service (ERS) currently determines Costs of Production estimates, which includes estimates of value of production per unit, but only for beef cattle. No federal agency currently collects such value of production per unit data for horses, sheep, burros, or goats as would be required under the legislation. Conducting the additional surveys that would be required would be quite expensive and difficult to accomplished within the time frame specified in the legislation.

In addition, we have concerns about the costs of obtaining a statistically reliable sample to determine broad, absolute data such as "total gross value of production," especially at the state or local level. In short, the data specified to be collected are



much more statistically demanding than a measure of price or change in base rate as currently collected, and would be more costly to collect.

Although in principle we agree with the approach of basing fees on value of production gain from grazing, it is not clear what the rationale is for charging a fee which is  $1/2$  of 1 percent of such value. Finally, to determine the fees to be charged requires that data be collected for the previous three-year period. Since the estimates as currently done by ERS and NASS are rarely less than two years behind the current year, projections for at least two years would be required to meet the "three years preceeding" requirement in the legislation.

Cartwright, North Dakota  
July 6, 1995

Jack Ward Thomas, Chief  
Forest Service, USDA  
PO Box 96090  
Washington DC 20090-6090

Dear Chief Thomas:

I have been a lessee or permittee on what are now the National Grasslands for 45 years, eight of those years in Nebraska, the remainder in North Dakota. I have known many of those who were here in the beginning and helped to organize the first grazing associations. As a youngster in the 1930's, I well remember the conditions then. I have visited and am familiar with almost all of the Grasslands on both the Northern and Southern Great Plains. In the interest of accuracy and to correct the record, I feel I must respond to several of the statements made by you to the Senate Committee on Energy and Natural Resources Subcommittee on Forests and Natural Resources on June 22, 1995.

I would like to refer you to a document entitled Land Utilization Project McKenzie County, North Dakota (LU-ND-1) (E. A. Aicher and S. M. Linge, Institutional Adjustments Survey, USDA Soil Conservation Service Region 7, Institutional Adjustments Division, February 1941). A few years ago I presented a copy to your predecessor Dale Robertson so it should be in your files. If not, it is in the historical files at the Soil Conservation Service headquarters. While specific to McKenzie County, this document describes conditions typical to other areas in the Northern Great Plains which were targeted for LU projects. It most certainly does not verify the very imaginative and self-serving version of events and conditions in that era that the forest service would lead the Congress and others to believe.

The greatest amount of National Grasslands are located in the Northern Great Plains, outside the "Dust Bowl" in Kansas, Oklahoma and Texas.

Only a small portion of the acquired lands here had been cultivated, and the most of those in order to comply with homestead requirements. The balance remained in grass, in units too small to sustain families. While the 1930's drought produced an acute water shortage, in no case was there "massive soil erosion and deterioration". There was, however, severe social and economic disruption, and much hardship involved. Government programs initiated in the early 1930's such as the Resettlement Act were designed to aid people and lessen this disruption. Most land purchases were complete at the time the Bankhead-Jones Farm Tenant Act. (The goal of the New Deal was to purchase 15 million acres of land each year for five years - a total of 75 million acres - and in the words of an assistant secretary at USDA, "emulate the Grand Experiment now in progress in the Soviet Union".)

Most of the acquired lands in the northern plains were not cultivated. LU projects were primarily land too rough or otherwise unsuited for farming and have not "rose from the dust of worn out land...". If this had been the case, what of the adjacent lands that remained in private ownership and were cultivated much more extensively? If "federal agency stewardship" averted a "near environmental disaster" then the private lands should have been damaged beyond repair. The combination of drought, economic depression and the New Deal created what became the National Grasslands. The efforts of the people who remained on the land plus the ending of those three 1930's plagues resulted in what greeted the Forest Service when they came in the 1950's; productive grazing lands, secure ranching operations, vibrant communities, expanding wildlife populations, as well as the essential accomplishment of the other goals in the Bankhead-Jones Farm Tenant Act.

The excellent conditions which existed on the Land Use Projects in the Northern Plains when the forest service arrived in the early 1950's were due to the efforts of the people living there and their Soil Conservation Service advisors. Now, just as then, the people on the land, still relying on the best technology and advice from a variety of sources are responsible for the abundance that is the National Grasslands. Yet it is maintained that we would ruin and destroy the environment and our livelihood, exterminate wildlife, exclude the public, and commit a long list of other irrational acts without the forest service to police and control.

You stated in your testimony that you believe it is now "timely to thoroughly explore current approaches to administering the grasslands to see if changes need to be made to fit today's circumstances." Since 1974 we have repeatedly requested that the different mission and goals of the National Grasslands be defined in the 2200 manual, or more appropriately, in a separate Grasslands manual. The forest service reaction has been to delete almost all reference to the Grasslands in regulations and in the 2200 manual. The laws, regulations and mindset of the forest service is to prevent human occupancy on the national forests, while the original laws, regulations and goal for the Land Use Projects and the Soil Conservation Service were to keep people on the land - just the opposite. Thus it is not difficult to understand why the forest service cannot and will not, no matter how many studies and evaluations, past, present or in the future, agree the Grasslands should be managed different from the national forests. Indeed, in your testimony you "do not concur that present concerns....would be resolved by.....changing management objectives." It would be very unrealistic for we on the Grasslands to expect any reversal of forest service attitudes or policy. More likely we could look forward to continued efforts to diminish the authority of the grazing associations. The forest service has an overwhelming need to prevail in what they perceive to be a power struggle. This does not bode well for the associations.

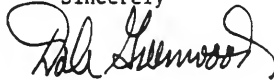
Your fear that Title 11 would lead to what you refer to as a program of "dominant use" is in reality a fear of Section 32 (b) of the Bankhead-Jones Farm Tenant Act which states the Secretary is authorized "to protect, develop, and administer any property so acquired and to construct such structures thereon as to adapt it to its most beneficial use." That livestock grazing and grassland agriculture were the most beneficial use and essential in carrying out the purposes of this Act were never questioned before the advent of the forest service. It is curious that you have difficulty with "promote secure occupancy and economic stability of farms" as it is part of the preamble of the BJFTA, under which the forest service is charged to administer the Grasslands, and more curious still with the term "cooperation and coordination" used in both the Federal Land Policy and Management Act and the Public Lands Improvement Act.

Implications for the 300 grazing permit holders would be positive. They

would be free to form grazing associations, or could be issued leases by the Secretary similiar to those grazing Section 15 BLM lands. I am sure the oil, gas and coal interests will protect their interests, which in any case do not conflict with the BJFTA or Title 11 of this act. The National Grasslands now administered by the forest service in the 12 states would "fit" very nicely under the provisions of the BJFTA as intended by law.

Because of misrepresentation by the forest service of the history of the National Grasslands, because of indifference and lack of concern by the forest service for the well-being of the people who live on the land and in the dependant surrounding communities, because of too much conflict and disagreement, we have reached the point of no return. There is too much difference in administrative and management philosophy for the forest service to be willing or comfortable as a partner with the grazing associations in the appropriate management of the National Grasslands, nor would the grazing associations at this point, given the history of our past relationship.

Sincerely



Dale Greenwood

HC2, Box 11

Cartwright, North Dakota 58638

STATEMENT OF  
MIKE DOMBECK, ACTING DIRECTOR  
Bureau of Land Management  
H.R. 1713, The Livestock Grazing Act  
House Resources Committee  
Subcommittee on National Parks, Forests and Public Lands  
July 11, 1995

I appreciate the opportunity to testify on H.R. 1713, the Livestock Grazing Act.

H.R. 1713 would change many provisions of existing law and essentially replace the BLM's new cooperative relations and grazing administration rules. The Department would default on its responsibility to the thousands of Western citizens who helped to shape BLM's regulations, if we did not voice strong opposition to H.R. 1713 and support of BLM's "healthy rangelands" strategy.

However, H.R. 1713 would turn back the clock on public rangeland management. Livestock grazing is a traditional use of the public lands. Over the last several decades, BLM has managed the public lands for grazing along with other multiple uses such as recreation, hunting, logging, and mining.

As stated many times by the BLM, in many places the public rangelands are in better shape today than they were fifty years ago. This is due, in part, to a deeper understanding of range ecology and improved grazing practices implemented by ranchers and the agencies that manage these public lands.

But, we must do more to pass on sustainable resources to our children, because:

- Millions of acres of public land remain in poor condition;
- Too many watersheds are not producing their full range of benefits;

- Too many soils continue to lose fertility;
- Poisonous, exotic weeds are a "biological nightmare" that reduce the land's ability to sustain itself; and
- Too many streams and riparian areas are still degraded.

The BLM's strategy to improve rangeland health is built on the collective wisdom of 60 years of applied science. It was shaped by over two years of public discussion. Our program will improve rangeland health through a balanced and practical approach that demonstrates how collaborative stewardship can meet the basic needs of both people and nature.

We have prepared a detailed comparison and analysis of BLM's old livestock grazing regulations, our new regulations, and the provisions of the Livestock Grazing Act, H.R. 1713 that I am submitting as part of our written testimony. Our analyses make clear our many strong objections to the bill. I am also including in the written record a piece entitled "Just the Facts," to clarify the effects of our new regulations.

I would like to speak to two of the principal differences between the bill and BLM's healthy rangeland strategy.

First, the grazing bill

- focuses public rangeland management on the single use of livestock grazing — de-emphasizing other uses and values of the public lands such as mining, hunting, recreation and wildlife.

In comparison, our strategy focuses on maintaining the health and productivity of **all** public land resources and values. Experience has proven that we cannot emphasize a single use of the public lands without compromising other uses and values.

Where H.R. 1713 concentrates exclusively on *livestock production*, our approach encourages collaborative management to sustain the land's *overall productivity* to meet the needs of not only public lands ranchers, but other public lands users such as hunters, campers, and recreationists. I firmly believe that our approach is more appropriate in meeting our stewardship responsibilities and will better serve all of those who use and value the public lands.

Second, the bill would

- severely limit public involvement in the management of the public lands.

Over the past 20 years, it has become clear that the most effective stewardship — for both natural resources and people — occurs when the many public land interests work together for what President Theodore Roosevelt called "common solutions to common problems for the common good."

We must move beyond public land users sitting at opposite ends of the table arguing over the use of shared resources — waiting for court ordered "solutions." H.R. 1713 is a lawyer's dream — a recipe for polarization and litigation. If we regress to such management, the public lands and the people who depend on them, suffer most.

H.R. 1713 limits the ability of anyone who does not graze livestock to have a say in public land management and planning. To deny citizens a seat at the table — a voice in the process — would be a major step backward. In contrast to the bill, our program to improve public rangeland management would assist all who value the public lands to work in a collaborative manner to define a common vision for their health.

In order to bring together all of those who use and care for the public lands, we have met with western Governors, or their staffs, to select a model for creating diverse and balanced citizen advisory councils. We intend for local citizens to be in the lead. Our Resource Advisory Councils are tailored to best meet the needs of all those who use and appreciate public lands, be they families on outings, ranchers, anglers, or oil and gas developers.



Over time, our approach will

- restore the productivity and diversity of 100,000 acres of riparian areas;
- bring 20 million acres of uplands into properly functioning condition;
- benefit most plant, fish and animal species, including livestock; and
- enhance recreational opportunities such as fishing, hunting, hiking, tourism, and wildlife viewing.

The health of our watersheds is what ultimately sustains livestock production in the West. Yet, we cannot meet the needs of the people if we do not maintain the health of the land.

BLM's healthy rangelands approach moves resource decision-making from Washington D.C. to the western rangelands. In contrast, H.R. 1713 offers 93 pages of top-down direction to local managers and public land users. We believe that those who live closer to the resources have a better understanding of how to meet people's needs within the limits of sustainability.

This bill is a departure from traditional multiple use management in that it appears to elevate one use over other uses of public lands. It changes the standards that courts apply and creates the potential for disruptive litigation for years to come.

We cannot allow lawsuits, judicial injunctions, and top-down remedies to impede our stewardship responsibilities. Good stewardship must provide managers and local communities with the tools and flexibility to develop lasting solutions for all public land uses and values.

BLM's approach provides this flexibility; H.R. 1713 does not.

For example, H.R. 1713 eliminates a rancher's ability to apply for conservation use of public rangelands. It also prevents managers from placing decisions in immediate effect in order to avert resource degradation except in extraordinarily narrow circumstances.

As you know, the Senate Energy and Natural Resources Committee plans to mark up their grazing bill, S. 852 on July 19. I sincerely hope that the House will choose not to use the Senate's preliminary mark which the Senate Committee has shared with us. It makes a bad bill far worse.

Allow me to speak to the three provisions of the Senate's mark that particularly concern BLM.

First, the Senate preliminary mark of S. 852 deletes all "affected interest" provisions — effectively eliminating the meaningful opportunity for *anyone who does not graze livestock on public land* to participate in grazing planning and management. Grazing is conducted on approximately 95% of public land in the lower 48 states. Lands owned by all Americans. The only recourse for those who do not graze livestock, but who do care for publicly-owned lands, and who are affected by grazing, is litigation.

Such a policy is contrary to law, precedent, and common sense. We should be working together to involve more people in collaborative decision-making — not cutting them out.

BLM resolves multiple use conflicts at the allotment plan level. Here, closest to the ground, livestock operators, sportsmen, recreational users, conservationists, and others work together to find common solutions to common problems. The process works and will work even better with BLM's new regulations.

Top-down legislation from Washington D.C. simply cannot take the place of local people working together to resolve local issues.

Second, the Senate's preliminary mark prohibits BLM from using monitoring and inspection data

unless the livestock operator has been invited and allowed to participate. BLM agrees that conducting monitoring with permittees is most effective. Requiring the permittee's participation, however, is akin to allowing the uncooperative operator veto power over needed monitoring. This would essentially eliminate our ability to conduct effective trespass inspections. Most public land ranchers are good and responsible stewards. This legislation, however, would insulate irresponsible and uncooperative operators from management actions that keep the land healthy and productive.

Finally, the Senate preliminary mark would require that all Resource Advisory Council members are selected from a list submitted by the Governor of the state. This politicizes what should be an apolitical process. Certainly, State Governors need to be heard. In fact, in recent months, our BLM State Directors have worked with all the western Governors to forward to the Secretary nominations for diverse and balanced Resource Advisory Councils. We already have in place a process that works by representing the full range of opinions — be they from the general public, commodity interests, recreation users, or conservationists.

Limiting public participation in public rangeland management would fail both the land and those who depend on it. I assure you that if we:

- limit the tools available to managers and ranchers;
- narrow peoples' ability to participate in public land management;
- emphasize a single use of the public lands at the expense of other uses and values;

we will have failed as stewards of the public land. More importantly, we will have betrayed our children by diminishing their natural resource legacy.

For these reasons, and for those set forth in the attached analysis, the Department of Interior and the Bureau of Land Management strongly oppose H.R. 1713, the Livestock Grazing Act.

**COMPARISON AMONG BLM'S OLD GRAZING REGULATIONS,  
THE NEW GRAZING REGULATIONS, AND  
THE LIVESTOCK GRAZING ACT**

**Introduction:** In May, 1995, the Livestock Grazing Act (H.R. 1713) was introduced in the House of Representatives. The bill would change major provisions of the Bureau of Land Management's (BLM's) new grazing administration and cooperative relations rules which were developed after two-and-a-half years of public involvement. BLM's new regulations are scheduled to be implemented after August 21, 1995.

Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
Fundamentals of rangeland health	No fundamental goals to maintain healthy public rangelands.	<p>Four fundamentals of rangeland health:</p> <ol style="list-style-type: none"> <li>1. Watersheds are in, or progressing toward, "properly functioning condition."</li> <li>2. Ecological processes are maintained, or progressing toward attainment.</li> <li>3. Water quality meets state standards.</li> <li>4. Habitats for T/E species are either restored, maintained, or improving.</li> </ol>	<p>Does not provide any fundamentals of rangeland health.</p>	<p>The new regulations' fundamentals of rangeland health make clear the basic underpinnings of resource stewardship.</p> <p>They provide goals for managers and users alike that will ensure the long-term productivity and health of the public lands.</p>

Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
<p><b>State/regional standards of health</b></p>	<p>BLM has no geographically-based criteria to measure the physical function or biological health of the public lands.</p>	<p>Standards that measure the physical function and biological health of the land established on a state or regional basis.</p> <p>Standards are developed with extensive Resource Advisory Council participation and broad involvement by the public and academia.</p> <p>Standards are reflected in activity plans and the terms and conditions of grazing permits and leases.</p> <p>If the authorized officer determines that existing grazing management is a significant factor in failing to achieve standards management practices will be adjusted before the next grazing year.</p>	<p>Standards are developed in conjunction with state agricultural agencies and land grant universities.</p>	<p>Under the new regulations, state/regional standards would provide the technical and scientific basis for measuring progress toward attainment of the fundamentals of rangeland health.</p> <p>Whereas, the focus of the Livestock Grazing Act is limited to the time of grazing, amount of grazing, and duration of livestock grazing on public lands.</p>

Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
State/regional guidelines for use	BLM has no state/regional ecologically-based guidelines for grazing.	<p>Guidelines are established on a geographic basis to ensure that grazing is conducted in a manner that helps to meet standards.</p> <p>Guidelines are developed with extensive Resource Advisory Council and general public involvement.</p> <p>Guidelines are reflected in activity plans and the terms and conditions of grazing permits and leases.</p>	Guidelines are developed in conjunction with state agricultural agencies and land grant universities.	<p>The new regulations <i>require</i> broader public involvement in developing guidelines for grazing on public lands than does the Grazing Act.</p> <p>Under the new regulations, locally developed guidelines provide BLM with the management tools to meet basic standards for the physical function and biological health of the public lands to ensure productive and diverse rangelands.</p>

Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
Advisory councils	<p>Most BLM districts utilize grazing advisory boards and district advisory councils. Grazing advisory boards are composed of permittees who advise BLM on various grazing issues.</p>	<p>Ten to 15 member Resource Advisory Councils (RACs), representing a diverse balance of interests from within the state, are established for public lands.</p> <p>RACs provide advice and recommendations to BLM on planning and management of all resources on all public lands.</p> <p>RACs operate by consensus. At least a majority of each of the interests represented (i.e., commodity users, conservation interests, other citizens and stakeholders) must agree to forward recommendations to BLM.</p>	<p>Requires establishment of nine to 15 member RACs for each grazing district representing historical uses; multiple uses; affected land owners; county social and economic interests; elected state and county officials; and the public-at-large.</p> <p>Requires establishment of 5-9 member Grazing Advisory Councils for each grazing district; grazing permittees and lessees must be the majority of each council.</p> <p>Grants Grazing Advisory Councils the authority to set range improvement objectives.</p> <p>Limits both councils to providing advice only on matters relating to BLM grazing districts.</p>	<p>The new regulations <i>require</i> a more balanced and diverse advisory council membership than does the Livestock Grazing Act.</p> <p>The Livestock Grazing Act</p> <ul style="list-style-type: none"> <li>• does not provide for the possibility of RAC involvement with other agencies.</li> <li>• does not require, or facilitate, consensus-based decision-making.</li> <li>• requires establishment of <i>at least</i> 3-4 times the number of councils proposed by BLM under the new regulations.</li> <li>• does not provide for RACs outside of Section 3 grazing districts.</li> </ul>

Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
Public participation	<p>Individuals may ask to be identified as an "affected interest" to participate in grazing decisions.</p> <p>Some State offices apply selection criteria to decide who qualifies as an affected interest, others do not.</p>	<p>"Affected interest" replaced by "interested public."</p> <p>Any interested citizen, group, or organization may request, in writing, "interested public," status and thus participate in public land planning and decision making.</p>	<p>Same provisions as old regulation except all affected interests must provide "substantiated evidence" that they will be affected by BLM decisions.</p>	<p>The new regulations reinforce the fact that public lands belong to all Americans; and that a more open decision-making process will assist BLM to manage for multiple uses and values.</p>
Conservation use	<p>Nonuse is allowed on an annual basis for conservation or personal business reasons; during this period, other ranchers may receive temporary permission to use forage.</p>	<p>If approved, allows permittees to voluntarily exclude livestock grazing for up to 10 years (while retaining the opportunity to graze in the future).</p> <p>Other ranchers may not receive temporary permission to use forage</p>	<p>No provisions for conservation use.</p>	<p>The new regulations allow ranchers, who know the land best, to decide when, if, and for how long, they should apply conservation use to an allotment.</p> <p>They also provide ranchers with an additional tool, available at their discretion, to conserve and restore other rangeland values and uses such as big game populations, healthy fish habitat, upland ground birds, and other wildlife species.</p>



Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
<b>Range Improvement funds</b>	<p>Half of grazing fee receipts are returned to district of origin; the other half are allocated by Secretary (but normally returned to district).</p> <p>Funds are used for limited purposes.</p>	<p>Half of grazing fee receipts are returned to state or district of origin; the other half are allocated by Secretary (but normally returned to district).</p> <p>The Secretary allocates on a priority basis.</p> <p>Funds can be used for on-the-ground improvements to benefit rangeland resources.</p>	<p>Grazing Advisory Councils advise BLM on expenditure of range improvement funds.</p>	<p>The new regulations allow BLM broader flexibility to prioritize expenditures and to apply range improvement funds for on-the-ground improvements in order to maintain the health of the public rangelands.</p>

Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
<p>Appeal rights and procedures</p>	<p>Grazing decisions are "stayed" upon appeal unless emergency regulations are invoked. It often takes 2 years or more to resolve appeals.</p>	<p>Provides ranchers with the same appeals provisions that apply to other users of the public lands:</p> <ul style="list-style-type: none"> <li>● 30 days to file appeal or petition to "stay" a decision.</li> <li>● Unless stay is requested, decision goes into effect after 30 days.</li> <li>● A final decision is on the stay within 45 days of the stay request.</li> <li>● If a stay is not granted, decision goes into effect no later than 75 days after a decision.</li> <li>● Decisions may go into effect immediately in the event of unusual circumstances such as drought, fire, flood, infestation, or when continued grazing poses an "imminent likelihood of significant resource damage."</li> </ul>	<p>Same as old regulations except for a provision that allows a district manager to dismiss appeals without merit.</p> <p>District manager may make a decision effective during an appeal only if</p> <ul style="list-style-type: none"> <li>● such a decision is on a grazing permit application;</li> <li>● "imminent and irreversible" damage would occur to the land because of delay; and if</li> <li>● such a decision is in accordance with the opinions offered by state land grant universities.</li> </ul>	<p>The new regulations enable field managers to take decisive action 1) at times other than during permit applications and 2) before resource degradation becomes "imminent" or "irreversible" (yet they still allow a permittee to file for a stay).</p> <p>The new regulations place grazing appeals under the same provisions that apply to other uses of the public lands.</p>

Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
<b>Permit tenure</b>	10 year grazing permits	10 year grazing permits	15 year grazing permits.	Livestock Grazing Act specifies 15 year permit without amending The Taylor Grazing Act.
<b>Unauthorized grazing use</b>	Requires a cash settlement regardless of circumstances.	Allows non-monetary settlement when unauthorized use is unintentional, incidental, causes no damage, and results in no substantial forage consumption.	Generally similar to new regulation.	
<b>Suspended nonuse</b>	Historic Animal Unit Months (AUMs) that exceed the present carrying capacity of the land are placed in "suspended nonuse."	The same as old regulations.	Similar to old regulations.	

Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
<p><b>Subleasing</b></p>	<p>Permittee must own or control both livestock and base property.</p> <p>Approved pasturing agreements are allowed and no surcharge is assessed.</p>	<p>Surcharge is assessed for authorized pasturing agreements (where a permittee pastures someone else's livestock) on the permitted or leased land.</p> <p>Surcharge calculation is 35 % of the difference between federal grazing fee and private grazing fee in the state.</p> <p>Permittee's children are exempted from the surcharge.</p>	<p>Surcharge is assessed for authorized pasturing agreements.</p> <p>Surcharge calculation is 25% of the difference between federal grazing fee and previous years private grazing fee in the applicable state.</p> <p>Expands surcharge exemption to include spouse, son, daughter, grandson, granddaughter and if operator is unable to make full use due to age or death of primary operator.</p>	<p>The Livestock Grazing Act</p> <ul style="list-style-type: none"> <li>● expands surcharge exemption and</li> <li>● enables permittees to allow others to graze their livestock on public land for 10% less than the new regulations.</li> </ul>

Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
<p><b>Prohibited acts</b></p>	<p>Grazing permits may be canceled or suspended for various livestock related offenses as well as violations of the Bald Eagle Protection Act and the Endangered Species Act.</p>	<p>Applies civil and criminal penalties for grazing related violations of laws and regulations protecting wildlife, regulating use of pesticides, protecting archaeological resources, and protecting water quality and stream courses.</p> <p>Applies civil and criminal sanction to an exhaustive list of grazing related offenses (e.g., failure to graze for 2 consecutive years; unauthorized subleasing; failure to comply with terms of permit or lease; damage to federal property; false statements in base property certification, application, cooperative agreement, or actual use report, etc.).</p>	<p>Applies civil sanctions to specific livestock grazing related offenses (e.g., failure to graze for 2 consecutive years; unauthorized subleasing; failure to comply with terms of permit or lease; damage to federal property; false statements in base property certification, application, cooperative agreement, or actual use report, etc.).</p>	<p>The Livestock Grazing Act 1) prohibits administrative penalties against the grazing permit/lease for violations of almost all environmental statutes and 2) omits all criminal penalties. BLM managers are limited to using civil penalties, whose effectiveness is restrained by appeal/stay procedures.</p> <p>The Livestock Grazing Act does not include penalties for the following:</p> <ul style="list-style-type: none"> <li>● failure to pay fees;</li> <li>● refusal to install, maintain, or modify an improvement when so requested by BLM;</li> <li>● failure to comply with requests for special tagging;</li> <li>● destroying vegetation without authorization;</li> </ul> <p>The Livestock Grazing Act makes conservation use for more than two years a prohibited act.</p>

Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
<b>Mandatory qualifications</b>	Applicants are not disqualified from holding a federal grazing permit due to violations or cancellation of a federal or state grazing permit.	<p>Both new applicants and renewing applicants for permits and leases must have a satisfactory compliance record.</p> <p>An applicant for a new permit does not have a satisfactory record if</p> <ul style="list-style-type: none"> <li>• their federal or state permit or lease (within the allotment for which a new permit/lease is sought) has been canceled within the previous 3 years, or</li> <li>• they are barred from holding a permit/lease by a court of law.</li> </ul>	Similar to old regulations.	The new regulations enable field managers to consider an applicant's past compliance with applicable terms and conditions and the grazing regulations before granting a permit or a lease.
<b>Water rights</b>	Permittees may file for and acquire water rights for livestock grazing on public land either as sole or co-owner or with BLM.	<p>New water rights for livestock grazing on public land will be acquired, perfected, maintained, and administered in the name of the United States to the extent allowed by state law.</p> <p>Does not affect valid existing rights. Does not create any new federal reserved water rights.</p>	Mandates that state water law control any water uses that have any connection to livestock grazing (not limited to BLM lands), and does not protect valid existing rights.	Livestock Grazing Act voids or limits existing federal water rights, whether held by BLM or other federal agencies like Defense Department or National Park Service, that are based on federal reservations and have some connection to livestock grazing (such as 1926 Springs and Water Holes Reservations).

Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
<p><b>Terms and conditions</b></p>	<p>Provide the requirements of livestock management on an allotment.</p> <p>Provide managers with the flexibility to tailor requirements to the unique needs of individual allotments.</p>	<p>Similar to old regulations.</p>	<p>Limits the use of terms and conditions to livestock grazing issues such as kind, number, season of use, periods of use, allotments to be used, and amount of use.</p>	<p>The Livestock Grazing Act focuses on livestock management, whereas the new regulations encourage resource management for the full range of rangeland values and uses.</p> <p>The Livestock Grazing Act limits the ability of managers to tailor management to address allotment specific issues.</p> <p>Severely limits the ability of managers to enforce allotment management plans (as compliance with the AMP is typically stipulated as a term or condition).</p>

Issue	Old regulations	New regulations	Livestock Grazing Act	Key Differences
Range improvement ownership	Permittees hold title to improvements that they fund and share title with those constructed with BLM.	<p>Clarifies that title to all new permanent improvements on public land are made in the name of the landowner, the United States.</p> <p>Prospective only. Valid existing rights are not affected.</p> <p>Permittee/lessee contributions are recorded and reimbursed should they cease to hold a permit or lease if the land is devoted to other public purposes.</p>	Same as old regulations except the percent of ownership is in proportion to the level of maintenance performed.	The new regulations make it clear that title to future permanent improvements will be retained by the United States, as landowner.





## ♦ Just the Facts ♦

### BLM's New Grazing Rule



*Myth: The new grazing rule will eliminate livestock grazing from the public lands.*

**FACT:** Livestock grazing will remain a major use of public lands.

The new grazing regulations will provide better grazing opportunities for ranchers by improving the capability of the public rangelands to produce more water and forage.

Implementation of the new range management provisions will help to:

- ♦ restore the health of 100,000 acres of important streamside habitat
- ♦ bring 20 million acres of uplands into properly functioning condition
- ♦ reduce erosion, improve water quality, increase ground water recharge, and increase the number of perennial streams
- ♦ benefit all wildlife species and reduce reliance on the Endangered Species Act to conserve rare plant and animal species
- ♦ enhance revenues from and opportunities for recreational activities such as hunting, fishing, hiking, and tourism.

The new grazing regulations will help speed improvements to rangeland health, which will benefit all sectors of the economy, including ranching, recreation, and tourism. The poor condition of the public lands is exemplified by:

- X Watersheds not producing their full range of benefits
- X Soils continuing to lose fertility.
- X Poisonous, exotic weeds that are a "biological wildfire" (an explosion in slow motion) reducing the land's carrying capacity.
- X Many streams and riparian areas being degraded

*Myth: The final grazing rule raises the Federal grazing fee.*

**FACT:** The final grazing rule does not raise the Federal grazing fee or change the federal grazing fee formula. In fact, the Federal grazing fee declined by 19 percent this year. BLM decided not to finalize a fee increase in order to give Congress the opportunity to hold hearings on the subject and enact legislation addressing the appropriate fee for grazing on public lands.

*Myth: The new grazing rule violates state water law and will enable the government to take control of ranchers' existing water rights.*

**FACT:** The new rule in no way affects state water law and does not affect existing water rights.

♦ The new rule does not take control of ranchers' water rights. The new rule does not affect the structure of western water law. Nor does it affect any *current* water rights on public lands.

♦ Only new water rights on public lands for livestock watering on those lands, would be acquired, maintained, and administered in the name of the federal government to the extent allowed by state law.

*Myth: The BLM will take ownership of existing range improvements without compensation.*

**FACT:** The final grazing rule does not affect existing range improvements on public lands. Permittees and lessees can continue to hold title to temporary or removable improvements such as corrals and water tanks. The United States will hold title to new, permanent range improvements constructed on or made to public lands.

♦ If a lease or permit is transferred, the new permit or lease holder will reimburse the previous permittee or lease holder for contributions made to range improvement projects.

♦ This policy is consistent with the common practice of landowners keeping title to permanent improvements made on their land. It is also consistent with Forest Service practice.

*Myth: Ranchers are being cut out of planning and decision-making on public lands.*

**FACT:** Ranchers will continue to be directly involved in permit issuance, renewal and modification, increasing or decreasing permitted use, development of activity plans, and range improvements.

BLM recognizes that often the most effective and knowledgeable stewards are those who live in communities dependent on goods and services from the public lands. Ranchers will participate along with other public land users, elected officials, and other state residents on Resource Advisory Councils. The diversity of membership on the Resource Advisory Councils reflects the fact that the public lands serve multiple uses and provide multiple benefits.

## Just the Facts (continued)

*Myth: Ranchers will lose their right to appeal BLM decisions.*

**FACT:** The grazing rule provides ranchers with the same appeals provisions that apply to other users of the public lands.

In the past, when a permittee or lessee appealed a BLM decision, the decision was "stayed" automatically pending resolution of the appeal. This often delayed implementation of decisions for several years or more. As under current rules, these new rules allow a permittee to appeal a decision within 30 days. The decision would not be in effect during the 30 day appeal period except in limited circumstances. The Department of the Interior Office of Hearings and Appeals has 45 days after the end of the appeal period to consider stay petitions filed with an appeal. Thus, if a stay petition is filed with an appeal, a decision goes into effect no later than 75 days after it is issued if a stay is not granted. If a stay is granted, a decision would be "stayed" until the appeal is decided.

Only actions necessary to protect the resource in certain specified circumstances and decisions to end unauthorized use are implemented upon issuance. This will apply only in a very narrow range of cases such as during severe insect infestation, drought, where continued grazing use poses an imminent likelihood of significant resource damage, or grazing without a permit. Even these decisions may be appealed within 30 days. However, the decision will remain in effect until resolution of the appeal, unless a stay is granted.

Grazing decisions are no longer the exception to Departmental policy. Grazing decisions and appeals will receive the same consideration that applies to other users of the public lands.

*Myth: Bureaucrats in Washington DC will impose one-size-fits-all standards and guidelines on ranchers who hold permits or leases to graze livestock on public land.*

**FACT:** Standards and guidelines will be developed at the state or regional levels by local people, not in Washington. Resource Advisory Councils will play a key role in developing standards and guidelines. Standards are measurable criteria to maintain the physical function and biological health of the land. Guidelines are designed to help meet the standards.

*Myth: BLM or environmentalists will apply "conservation use" to permittees in order to remove livestock from public rangelands.*

**FACT:** Conservation use will not be imposed on a permittee or lessee by BLM. Conservation use is simply a management tool available at the discretion of the permittee or lessee. If approved by an authorized BLM official, conservation use will enable a rancher to exclude livestock grazing for up to ten consecutive years without paying grazing fees. During the period of conservation use, forage will not be available to other permittees. Permittees retain the ability to resume grazing in the future.

*Myth: The Department of Interior forced grazing changes on the public and ignored public participation.*

**FACT:** The new grazing rules are the result of an extensive collaborative process.

Nearly every major aspect of the original proposal has been modified in response to public comment. For example, recognizing that local communities often have the most direct knowledge of public lands, the final rule allows for far more flexibility in establishing Resource Advisory Councils and establishes residency requirements.

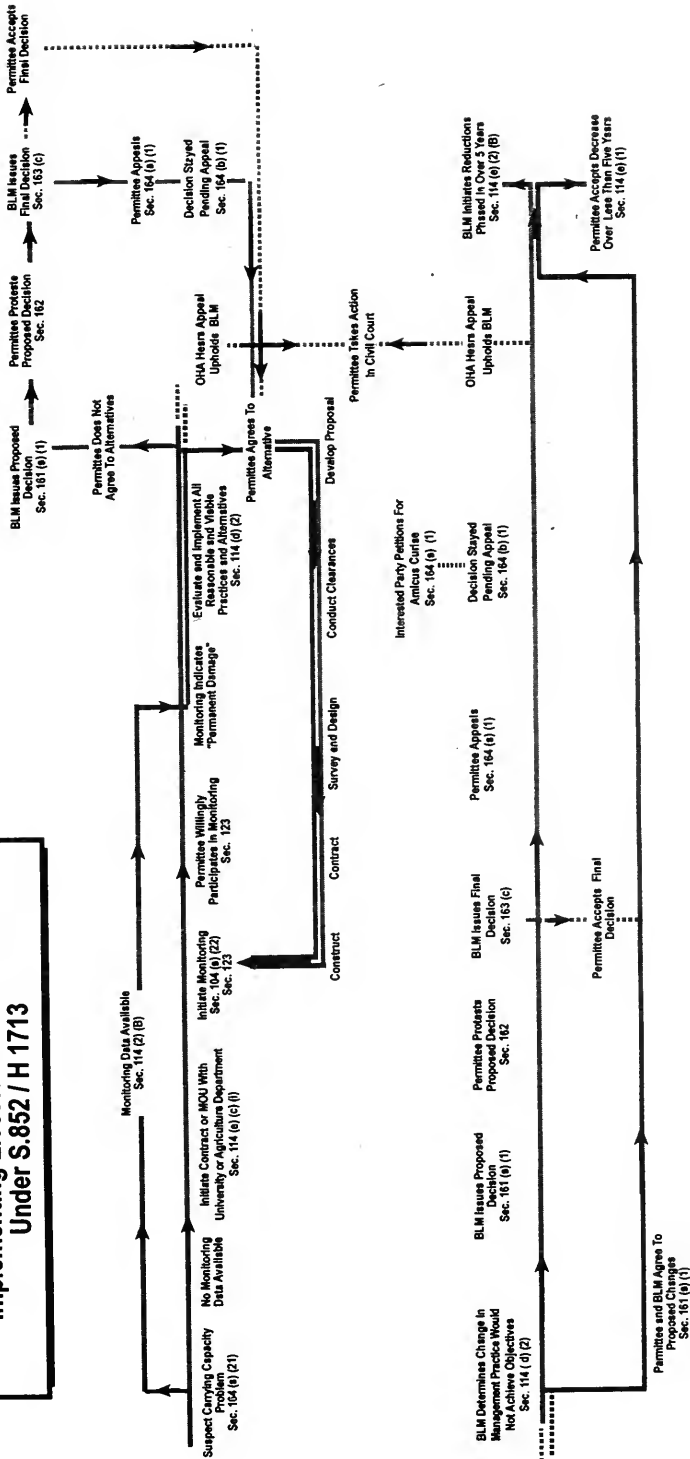
The final rule responds directly to issues raised by the ranching industry. For example, the final rule provides for long-term permit tenure, allows subleasing and pasturing agreements, and allows non-monetary settlement of unintentional trespass.

As an indication of the emphasis on public participation, Secretary Babbitt met with western Governors, environmentalists, user groups, State and local officials, and local citizens on twenty separate occasions. BLM and the U.S. Forest Service held 48 hearings throughout the West on the Draft Environmental Impact Statement and the proposed rule-making. Over 20,000 letters registering over 38,000 comments were read and considered.

#### Questions?

Contact: BLM Regulatory Management, Annetta Cheek: 202/208-4256  
 BLM Legislative Affairs, Laurie Sedlmayr: 202/208-5101  
 Resource Advisory Councils, Chris Wood: 202/208-7013

# Implementing Livestock Reductions Under S.852 / H 1713



STATEMENT OF  
DONALD M. BAY  
ADMINISTRATOR  
NATIONAL AGRICULTURAL STATISTICS SERVICE  
U. S. DEPARTMENT OF AGRICULTURE

Before the  
Subcommittee on National Parks, Forests and Lands  
Committee on Resources  
U.S. House of Representatives

Concerning H.R. 1713, Uniform Management of Livestock Grazing on Federal Land

July 11, 1995

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

We appreciate the opportunity to provide the views of the Department of Agriculture concerning H.R. 1713, a bill to provide for uniform management of livestock grazing on Federal lands. We will convey the concerns of both the National Agricultural Statistics Service (NASS) and the Economic Research Service (ERS).

Only two provisions in this bill affect programs under the jurisdiction of the Secretary of Agriculture: Title I, Section 137, concerning grazing fees, and Title II, Section 201, which would remove national grasslands from the National Forest System. We defer to the Secretary of the Interior concerning other provisions of the bill and to the Forest Service concerning Title II, Section 201.

Title I, Section 137, would replace the current grazing fee calculation formula and require NASS to collect certain data and calculate grazing costs. While we concur that the present system for determining grazing fees on Federal lands might be improved, it is not clear how this legislation would accomplish such improvement. This proposal appears vastly different from the current fee formula that is determined by the change in private grazing rates, beef cattle prices, and the costs of producing beef cattle as collected and published by NASS for the Forest Service and Bureau of Land Management (Attachment A).

The bill, as written, raises many unanswered questions and issues. For example, some important terms, such as "total gross value of production for livestock" are not defined. We believe that the legislation refers to "total gross value of production" per cow, currently estimated by ERS and published in Economic Indicators of the Farm Sector--Costs of Production: Major Field Crops and Livestock and Dairy. These estimates are based on the 1990 cow/calf version of the 1990 Farm Costs and Returns Survey (FCRS) for the beef cow/calf enterprise, only one of the species listed in the definition of livestock set forth in the proposed legislation. Estimates for 1992 are the most recent, and were published in August of 1994. Under Section 137, the calculated grazing fee based upon the last 3 years (1990-92) of ERS estimates of gross value of production would be \$2.16 per animal unit month.

NASS also estimates "Value of Production" for cattle and calves and for sheep and lambs in their Meat Animals: Production, Disposition, and Income. NASS estimates are in \$1,000 totals for each State and the United States. Using NASS estimates of "Value of Production" on a per cow or per animal basis could result in higher fees since this total value of production

includes fed cattle, culled dairy cows, and beef cattle consumed on the farm. However, this approach (value of product) raises a number of uncertainties and has the potential for unanticipated consequences, i.e., changing the fee system for the eastern and southern regions that could have "pay-as-you-go" implications.

We are also unable to determine the connection between the fee to be charged and the data which would be required to be collected-- or if the specified data apply to public or private grazing leases. We are concerned that the language, as written, would lead to additional grazing fee studies, perhaps on an annual basis, which would lead to continued debate over the validity of studies and findings--which has been the case with prior studies.

There would also be a need to clarify agency responsibilities to avoid duplication. As written, NASS would be responsible for collecting the specified data. However, ERS currently indexes costs of production estimates per bred cow from the cow/calf version of the 1990 FCRS. These ERS estimates include estimates of the "total gross value of production" per unit, but only for beef cattle. ERS has discontinued its beef cow/calf and sheep costs of production surveys due to budget constraints. No Federal agency currently collects such value of production per unit data for cattle, horses, sheep, burros, or goats as would be required under the legislation. Conducting the additional surveys that will be required would be expensive (\$1 million annually) and difficult within the time frame specified in the legislation.

In addition, we have concerns about the increased reporting burden on ranchers, additional funding needed, and costs of obtaining a statistically reliable sample to determine broad,



absolute data such as "total gross value of production," especially at the state and local levels. Private leases are statistically a fairly rare item in some Western States. For example, in New Mexico, out 2,135 agricultural operations contacted last year, 165 reported private grazing fees for their locality, but only 59, or 3 percent, reported having actually leased private grazing land. It is also unclear that a reliable estimate of "total gross value of production for livestock" could be determined from the specified data. Information on the "pounds gained" and "total dollar amount to be realized from the lease" are judgmental and difficult to quantify. In short, the data specified to be collected are much more statistically demanding than a measure of price or change in base rate as currently collected, and would be more costly to collect.

Although we agree in principle with approaches for basing fees upon market value, there is no obvious rationale for charging a fee which is  $\frac{1}{2}$  of 1 percent of such value of production gain from grazing.

Also, to determine grazing fees under the bill's provisions requires that data be collected for the previous three-year period. Costs of production estimates as determined by ERS are generally about two years behind the current year since survey data are collected for the prior year and time is then needed for data processing and analysis (Attachment B). Projections for at least two years would therefore be required to meet the requirement in the legislation for the "three years preceding."

Finally, the proposed bill establishes NASS as the sole agency responsible for setting grazing fees. NASS is a data collecting agency and the administration of the fee has always been a responsibility of the land management agencies.

I have attached for the record an explanation of how the current grazing fee is computed, tables on the data collected and published by NASS that are used by the Forest Service and the Bureau of Land Management in the fee formula, and beef cattle costs of production estimates published by ERS. (Attachments A and B).

### **Summary**

Many unanswered questions and unresolved issues exist in the language dealing with grazing fee formula revision in the proposed bill. Important items such as "total gross value of production for livestock" are not defined and it is unclear whether the data specified to be collected are from public or private grazing leases. There also appears to be no link between the data required to be collected on the costs and returns from beef cattle grazing and the fee formula. Finally, there appears to be no rationale for the proposed fee formula, which amounts to one-half percent of "gross value of production."

NASS and ERS will work with this Committee, Bureau of Land Management, and Forest Service to collect and publish the necessary statistical and economic information required, but we should remain as third parties to the actual establishment of fees which would be left with those agencies that manage the Federal lands.

I would be pleased to answer any questions the Subcommittee members might have.

### Current Grazing Fee Formula Explanation

The National Agricultural Statistics Service collects grazing fee data to meet fee computation requirements of the Public Range Improvement Act of 1978 (PRIA) extended by Executive Order in 1986. This covers 307 million acres of Bureau of Land Management and National Forest rangeland in the Western States. The PRIA fee formula generates a single fee for these federal lands.

The PRIA fee formula is:

$$CF = \$1.23 \times (FVI + BCPI - PPI) / 100$$

where,

CF = The Calculated Fee to be charged as Congress defined to be the fair market value of the estimated economic value of livestock grazing to the user. Annual increases or decreases in the fee are limited to a plus or minus 25 percent of the previous year's fee.

\$1.23 = The Base Value grazing fee on private lands established in 1966 through the Western Livestock Grazing Survey which was conducted by NASS.

FVI = The Forage Value Index, an index of the 11 State Head Month Private Grazing Land Lease Rate (PGLLR), 1964-1968 = 100.

BCPI = The Beef Cattle Price Index, an index of USDA prices of beef cattle over 500 pounds, 1964-1968 = 100.

PPI = The PRIA Prices Paid Index, an index of prices livestock producers pay for selected production input items, 1964-1968 = 100.

All components of the PRIA fee formula are published in the December Agricultural Prices report.

A formula similar to PRIA is used for the National Grasslands but the private Animal Unit Month (AUM) rate for the 17 States are weighted by State level grazing permits for the FVI.

PGLLR data are also used to set rates for grazing on State owned land.

PGLLR data are necessary input for legislative and policy analysis.

Fees on the Eastern National Forests are indexed using NASS "Other Hay" price data.

**Data Used to Compute Grazing Fees with Public Range Improvement Act of 1978 (PRIA)  
Formula and Specified Values  
(Indexes During PRIA Executive Order 12548 Fee Formula, 1979 - 1994)**

Data Year	Fee Year	Private Grazing Land Lease Rate (PGLLR) (\$ Per Head)	Forage Value Index (FVI) 1/ (Percent)	Beef Cattle Price (\$ Per cwt)	Beef Cattle Price Index (BCPI) 2/ (Percent)	Prices Paid Index (PPI) 3/ (Percent)	Unconstrained PRIA Fee Rates 4/ (Per AUM)
1979	1980	7.53	206	64.90	294	275	2.77
1980	1981	7.88	216	64.20	291	319	2.31
1981	1982	8.83	242	59.10	268	359	1.86
1982	1983	8.36	229	57.70	262	378	1.39
1983	1984	8.85	242	56.40	256	387	1.37
1984	1985	8.86	243	57.79	262	395	1.35
1985	1986	9.17	251	53.65	243	397	0.93 5/
1986	1987	8.50	233	51.78	235	388	0.98 5/
1987	1988	8.54	234	59.96	272	381	1.54
1988	1989	8.75	240	65.46	297	386	1.86
1989	1990	8.87	243	67.46	306	402	1.81
1990	1991	9.22	253	71.81	326	419	1.97
1991	1992	9.66	265	72.15	327	436	1.92
1992	1993	10.03	275	69.60	316	440	1.86
1993	1994	10.20	279	73.43	333	451	1.98
1994	1995	10.30	282	67.07	304	455	1.61

- 1/ The annual PGLLR divided by the 1964-1968 base PGLLR of \$3.65 and multiplied by 100 to convert to an index number.
- 2/ The annual beef cattle price divided by the 1964-1968 base beef cattle price of \$22.04 and multiplied by 100 to convert to an index number.
- 3/ Index of prices paid for livestock production inputs for beef cattle from November through October of the data year and weighted to reflect beef production in the Western States.
- 4/ PRIA calculated rates or economic value without applying plus or minus 25 percent limit on year-to-year change.
- 5/ PRIA fee formula expired December 31, 1985, and indefinitely extended by EO 12548 (2/14/86) with a minimum of \$1.35 per AUM.

**Definitions As They Apply To NASS Data Collected and Published**

**HEAD MONTH** - This is a month's use and occupancy of range by one animal, except for sheep or goats. A full head month's fee is charged for a month of grazing by adult animals if the grazing animal is weaned or 6 months of age or older at the time of entering, or will become 12 months of age during the permitted period of use. For fee purposes, 5 sheep or goats, weaned or adult, are equivalent to one cow, bull, steer, heifer, horse, or mule.

**Animal Month** is a term formerly used by the Forest Service and is synonymous with **Head Month**.

**ANIMAL UNIT MONTH (AUM)** - (a) The amount of feed or forage required by an animal unit for one month. (b) Tenure of one animal-unit for a period of one month. This is not the same as **Animal Month** mentioned above.

An **Animal Unit** is considered to be one mature (1000 lb.) cow or equivalent based upon the average daily forage consumption of 26 lbs. dry matter per day.

**COW-CALF PAIR** - This is considered to be a cow with nursing calf (less than 6 months of age.)

Data Published Annually by NASS in the December Agricultural  
Prices to meet Grazing Fee Computation Requirements

Prices Paid Index for Beef Cattle Production (1964-68=100) 1/: 455

- 1/ The Index of Prices Paid by farmers and ranchers for beef cattle production input items is for the period of November 1993 through October 1994. The components of this index include the production indexes of Fuels & Energy, Farm & Motor Supplies, Building & Fencing Materials, Interest, Farm Wage Rates, and Farm Services. These components are weighted to the overall index value by their importance in the cost of producing beef cattle. The weights are unchanged from a year earlier.

Cattle : Prices Received, Selected States, 1994 1/

State	:	Beef Cattle
	:	Dollars per Cwt
9 Great Plains States <u>2/</u>	:	69.66
11 Western States <u>3/</u>	:	67.07
16 Western States <u>4/</u>	:	69.04
17 Western States <u>5/</u>	:	69.00

- 1/ Average for November 1993 through October 1994, except NV, UT, and WA which are marketing year averages.  
2/ CO, KS, NE, NM, ND, OK, SD, TX, and WY.  
3/ AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.  
4/ Eleven Western States plus KS, NE, ND, OK, and SD.  
5/ Sixteen Western States plus TX.

Data Published Annually by NASS in December Agricultural  
Prices to meet Grazing Fee Computation Requirements (Continued)

State	Average Rates by Payment Method <sup>1/</sup>					
	Animal Unit <sup>2/</sup>		Cow-Calf		Per Head	
	1993	1994	1993	1994	1993	1994
	Dollars per Month					
AZ	5.72	5.72	7.25	7.25	6.32	6.35
CA	10.40	11.00	13.30	13.10	11.20	11.80
CO	9.70	10.20	12.00	12.10	9.74	10.20
ID	9.25	9.70	11.10	11.60	10.20	10.30
KS	11.30	11.00	13.30	12.50	10.50	10.00
MT	11.40	11.80	12.90	13.50	11.50	12.90
NE	17.00	17.50	20.10	20.90	16.30	17.50
NV	8.80	8.80	11.00	11.50	8.80	9.50
NM	7.55	8.08	9.26	10.40	7.57	8.50
ND	10.00	9.75	11.40	11.30	11.20	11.40
OK	7.10	6.20	8.90	7.80	7.00	7.15
OR	9.75	9.00	11.50	11.00	10.30	10.00
SD	12.60	13.20	15.10	15.80	14.20	14.00
TX	8.75	8.75	10.00	10.40	8.00	8.10
UT	8.90	9.00	11.20	11.50	9.90	10.10
WA	7.80	8.30	10.60	10.00	10.50	10.40
WY	10.50	10.50	12.60	12.40	11.00	11.00
Seventeen State (All States)	10.30	11.00	12.80	13.10	9.40	9.70
Sixteen State (All States Except TX)	10.60	11.30	13.30	13.50	10.50	10.80
Eleven State (Excludes KS, NE, ND, OK, SD, TX)	9.70	10.00	12.10	12.00	10.20	10.30
Nine State (Excludes AZ, CA, ID, MT, NV, OR, UT, WA)	10.60	11.50	13.30	13.60	9.10	9.40

<sup>1/</sup> The 1993 average rates are estimates (rates over \$10.00 are rounded to the nearest dime) based on survey indications of monthly lease rates for private, non-irrigated grazing land from the June Agricultural Survey

<sup>2/</sup> Includes animal unit plus cow-calf rates. Cow-calf rate converted to animal unit (aum) using (1 aum=cow-calf \* 0.833)

Questions Asked by NASS on Its June Crop and Livestock Survey to Collect  
Private Grazing Rates

(Only ranchers who currently have cattle are asked these questions)

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**GRAZING FEES:**

10. Which of the following is the most commonly used method of charging for grazing on privately owned, non-irrigated grazing land in your area: Per Head Per Month, Per Animal Unit Month (AUM), or Per Cow With Nursing Calf Per Month?

(Check appropriate line)	Per Head Per Month	=	___
	Per Animal Unit Month (AUM)	=	___
	Per Cow With Nursing Calf Per Month	=	___

What is the average charge for this method in your area?.....Dollars & Cents \_\_\_\_\_

11. During 1995, will this operation pay a fee to graze cattle  
on privately owned, non-irrigated land?.....
- |         |       |
|---------|-------|
| YES = 1 | _____ |
| NO = 2  | _____ |



Table 51A--U.S. cow-calf production cash costs and returns, 1990-92

Item	1990	1991	1992
Dollars per bred cow			
Gross value of production:			
Steer calves	61.49	63.22	57.26
Heifer calves	51.68	53.24	48.09
Yearling steers	133.46	132.20	127.26
Yearling heifers	72.97	72.17	69.72
Other cattle	121.99	117.40	111.23
Total, gross value of production	441.59	438.23	413.56
Cash expenses:			
Feeder cattle	14.97	14.98	14.12
Feed--			
Grain	7.05	8.10	7.13
Protein supplements	23.80	23.26	23.95
By-products	7.55	7.41	7.53
Harvested forages	77.93	71.77	74.67
Pasture	83.63	83.21	81.00
Total feed costs	199.96	193.75	194.28
Other--			
Veterinary and medicine	11.74	13.72	15.64
Livestock hauling	2.63	3.43	3.39
Marketing	6.66	6.57	3.56
Custom feed mixing	0.34	0.33	0.18
Fuel, lube	22.10	23.40	20.39
Machinery and building repairs	24.20	26.02	27.02
Hired labor	27.97	29.03	30.47
Other variable cash expenses	5.09	5.26	5.47
Total, variable cash expenses	315.66	316.49	314.52
General farm overhead	34.16	27.52	27.87
Taxes and insurance	13.51	11.90	12.09
Interest	38.47	31.98	27.97
Total, fixed cash expenses	86.14	71.40	67.93
Total, cash expenses	401.80	387.89	382.45
Gross value of production less cash expenses	39.79	50.34	31.11

Table 51B--U.S. cow-calf production economic costs and returns, 1990-92

Item	1990	1991	1992
Dollars per bred cow			
Gross value of production:			
Steer calves	61.49	63.22	57.26
Heifer calves	51.68	53.24	48.09
Yearling steers	133.46	132.20	127.26
Yearling heifers	72.97	72.17	69.72
Other cattle	121.99	117.40	111.23
Total, gross value of production	441.59	438.23	413.56
Economic (full ownership) costs:			
Variable cash expenses	315.66	316.49	314.52
General farm overhead	34.16	27.52	27.87
Taxes and insurance	13.51	11.90	12.09
Capital replacement	81.56	83.88	84.65
Operating capital	17.69	12.91	8.42
Other nonland capital	32.27	34.90	37.27
Land	0.04	0.04	0.04
Unpaid labor	83.63	88.20	92.84
Total, economic costs	578.52	575.84	577.70
Residual returns to management and risk	-136.93	-137.61	-164.14

Note: 1990 to 1992 estimates were based on a revised methodology and are not directly comparable with results for previous years.



NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE  
1156 15TH STREET, N.W. • SUITE 1020 • WASHINGTON, DC 20005  
TELEPHONE: 202/296-9680 • FAX: 202/296-9686

# POSITION STATEMENT

TESTIMONY OF  
FRANK A. DUBOIS, NEW MEXICO SECRETARY OF AGRICULTURE  
ON BEHALF OF THE  
NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE  
BEFORE THE  
HOUSE RESOURCES  
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS  
UNITED STATES HOUSE OF REPRESENTATIVES  
JULY 11, 1995

*re: H.R. 1713*

Good morning Mr. Chairman and members of the subcommittee. I am Frank DuBois, New Mexico Secretary of Agriculture and a member of the National Association of State Departments of Agriculture (NASDA) Committee on Natural Resources. I am also the President of the Western Association of State Departments of Agriculture and a member of the NASDA Board of Directors. I appear before you today on behalf of NASDA, which is the nonprofit association of public officials representing the Commissioners, Secretaries and Directors of Agriculture in the 50 states and the territories of American Samoa, Guam, Puerto Rico, and the Virgin Islands.

H.R. 1713 will shape the future of the western states which depend on the use of federal rangelands for the continued growth and stability of the livestock and related industries, as well as maintaining the integrity of community social structures. As such, it is imperative that a full disclosure of the need and importance of this bill be expressed to you. Recognizing that the bill is indeed lengthy, I will limit my comments to those sections of the bill which NASDA feels will have the greatest impact and relevance within the time constraints we face today.

NASDA supports establishing state or regional standards and guidelines, as found in Section 105, for the administration and management of the federal rangelands. The provision in the bill which allows the Bureau of Land Management (BLM) to develop these standards and guidelines in conjunction with state departments of agriculture, or the appropriate state agency, along with the state land-grant university, is a positive step toward recognizing the important role these entities can play in the management of the federal rangelands resource. It is the state departments of agriculture which are best suited to know the needs as well as the challenges which face the livestock industry within each state, and the land-grant universities are best suited to provide the science and technical expertise which will make the decisions of the BLM defensible and appropriate.

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NASDA IS A NONPROFIT ASSOCIATION OF PUBLIC OFFICIALS REPRESENTING THE COMMISSIONERS,  
SECRETARIES AND DIRECTORS OF AGRICULTURE IN THE FIFTY STATES AND FOUR TERRITORIES.

*Printed on Recycled Paper*

We support the development of allotment management plans (AMP), as outlined in Section 121, using the process of consultation, cooperation, and coordination with the permittees and lessees, landowners, the grazing advisory council for the grazing district, and any state having land within the area to be covered by the AMP. The language in this bill concerning the development of AMPs mirrors the language found in Section 8 of the Public Rangelands Improvement Act (PRIA) of 1978. We recognize that Congress, as found in PRIA and when considering legislation such as this bill, carefully chose language specific for its meaning and its intent. The terms consultation, meaning the act of conferring or deliberating; cooperation, meaning an association of persons for a common benefit; and finally, coordination, being equal, of the same rank, degree, or importance, not subordinate, are vital and necessary for successful AMP development. These terms provide that the above mentioned entities have equal standing with the BLM when developing an AMP and consideration is given to all viewpoints and proposals. This insures that the best course of action for managing the rangeland resource is taken.

Additionally, NASDA supports paragraph (e) of this section which states that the issuance of a term grazing permit or lease that is consistent with a land use plan shall not be considered to be a major federal action requiring the conduct of any study or assessment under the National Environmental Policy Act (NEPA) of 1969. This is a positive step toward the recognition that the livestock grazing programs which occur on federal rangelands are fully authorized by law, regulation, and policy of the United States. The issuance, reissuance, or transfer of term grazing permits or leases are not newly proposed federal actions requiring extensive evaluation of the affected environment. Rather, the renewal of term grazing permits and leases is a continuing federal action by the Secretary in accordance with implementing the livestock grazing program on federal lands. The federal land management agencies have the responsibility to issue, reissue, or transfer term grazing permits and leases in accordance with the NEPA evaluation and assessment already provided for in the land use plan.

NASDA supports Section 122 of the bill outlining the process and corresponding ownership provisions of structural range improvements either implemented as cooperative BLM/permittee or lessee endeavors, or as provided solely by the permittee or lessee. This section maintains the value of range improvements, either in whole or in part, in the name of the permittee or lessee equitable to the amount of their original contribution to include maintenance costs. Allowing permittees or lessees title to structural range improvements which are located on Federal lands in proportion to their original construction costs, as well as increasing percentage ownership based on periodic maintenance costs, will encourage continued investment in range improvements necessary for effective range management. Additionally, the integrity of the ranch value and the associated grazing permit or lease will be maintained as the value of the range improvements is an inherent part of that value.

Section 123 of the bill addressing water rights on the federal lands is supported in its entirety by NASDA. State water laws must be the guiding force concerning the use and appropriation of water on the federal rangelands.

Section 131, paragraph (c)(2), concerning the Authorization of Grazing Use, provides that an authorized BLM officer, when considering more than one application for the grazing use, shall not take into consideration the past practice or the present willingness of an applicant to allow public access to federal land over private land. The association supports this paragraph but would suggest applying the language in this section to Section 132 addressing Grazing Permits or Grazing Leases. This would insure that the BLM could not make the issuance, reissuance, or transfer of a term grazing permit or lease contingent upon public access across private land. Additionally, the language should be expanded to include access for BLM personnel across private lands not being required or contingent as a qualification of the term grazing permit or lease.

NASDA supports the issuance of term grazing permits or leases for a period of 15 years as specified in Section 132. Increasing tenure length over the current 10 year term will provide additional safeguards to livestock operators for securing the kinds and amounts of financial backing necessary to continue investing in the public rangelands resource. A 15 year term grazing permit or lease also provides incentive for rangeland stewardship based on the permanence of the opportunity to produce, along with the expectation of receiving compensation in return for their investment. The length of term permit or lease tenure can also be thought of as the length of time which the public can depend on judicious stewardship of the public rangelands. Additionally, due to the intermingled land status so prevalent in the West, long term stewardship of the public lands affected by this bill also means long term stewardship of federal lands other than those of the BLM, as well as state trust and private lands which are so often part of many ranching units.

NASDA supports the grazing fee formula established by the bill which strikes a balance between providing a reasonable return to the federal government for use of the federal rangelands while insuring that permittees and lessees remain economically viable and financially solvent. The non-punitive grazing fee will allow permittees and lessees the latitude to invest in the federal rangelands. Revenues generated by the grazing fee will allow the BLM to continue providing effective management guidance and administrative oversight.

NASDA supports Section 164 concerning the ability of a permittee or lessee to appeal a final decision made by the BLM. Allowing final decisions which have been appealed to be placed in suspension, except in cases of imminent and irreversible damage to the resource, will insure the continued atmosphere and philosophy of innocent until proven guilty, and the opportunity for a full and fair disclosure of the facts related to the appeal. Delaying the implementation of a final decision pending appeal could be crucial to providing the operating stability necessary for many federal lands ranchers. Continuity in management and decision making is something that should be afforded to the federal lands livestock operator when so many other conditions are uncontrollable and unpredictable.

Section 176 of the bill, Resource Advisory Councils, is a concept that is supported by NASDA. Allowing entities with varied backgrounds, experiences, philosophies, and concepts of public land management to be involved in the land use planning process for BLM grazing districts will insure that a broad range of viewpoints and planning perspectives will be represented. BLM decision makers will benefit from this input resulting in less stalemate and increased efficiency in implementing productive rangeland management strategies and practices.

Mr. Chairman and members of the committee, I do have three suggested changes to the bill I would like to present to you today on behalf of NASDA.

One, I would suggest that H.R. 1713, in its entirety, be applied as it is now written or as amended, to all the grazing lands in the National Forest System under the jurisdiction of the U.S. Secretary of Agriculture. I believe applying this bill to both the BLM, under the Department of the Interior, and the U.S. Forest Service, under the Department of Agriculture, is both feasible and will have support from both agencies. The following quotes are taken from proposed rules published in the *Federal Register*. On March 25, 1994, a proposed rule by the BLM states, "Many of the proposals would result in greater consistency between the administration of grazing on the public rangelands by the Bureau of Land Management (BLM) and administration of grazing on National Forest System lands by the United States Forest Service (Forest Service)." On April 24, 1994, a proposed rule by the FS states, "The Department of Agriculture proposes to revise the National Forest System rangeland management regulations to...achieve greater consistency between the grazing management regulations of the Forest Service and the Bureau of Land Management, U.S. Department of the Interior." The joint BLM and Forest Service final environmental impact statement

also states, "The purpose and intent of the Preferred Alternative is to: Make the Forest Service's and BLM's rangeland management programs more consistent with each other, and more compatible with ecosystem management." I think it is obvious that both the BLM and the Forest Service should support the application of this bill to both of their respective agencies and encourage this committee to consider this recommendation.

Secondly, I would request on behalf of NASDA that any and all inclusions of the term "affected interest," in relation to allotment management planning, be removed from this bill. All interested parties should be and are allowed to participate in, comment on, and have standing to appeal resource management plans for the BLM and forest plans for the FS with respect to livestock grazing and the other issues addressed in these plans. Site specific planning, such as allotment management plans (AMP), must be consistent with the existing land use plan of either the BLM or the FS. As such, the development and subsequent adoption of an AMP is a final document signed by the permittee or lessee and the land management agency. These two entities are exclusively bound by signature to any and all requirements of the AMP, as well as the consequences of the success or failure of implementing the very same AMP. Affected interests are not signatory to the AMP nor obligated in any way to its requirements. Deleting the term "affected interests" in the bill as it relates to the development and preparation of AMPs does not limit their input into the public land management process, which should occur at the land use planning level, but rather prevents third party interference. Section 8 of PRIA is very specific concerning who shall be involved in the development of AMPs. I would urge the committee to take a close look at Section 8 of PRIA, giving special attention to the language used by the 95th Congress which provides permittees and lessees who use federal rangelands equal footing with the federal land management agencies.

Lastly, concerning Grazing Advisory Councils as found in Section 177 of the bill, I would request on behalf of NASDA that the membership of these councils be elected by the permittees and lessees who are permitted to graze livestock in the areas for which the councils are created, in this case it would be each BLM grazing district. The Secretary would establish the election process to be used for establishing the membership of the councils. This would insure that the membership of Grazing Advisory Councils would be chosen locally rather than appointed by the Secretary, thus eliminating the possibility of allowing the political landscape, particularly on the national level, to become a consideration in the local management of the nation's rangeland resource. Allowing those individuals, who have the greatest commitment and obligation to successful federal rangeland management, the freedom of self-determination in selecting membership to Grazing Advisory Councils is viewed by NASDA as positive and beneficial to both the industry and the resource.

This concludes my comments to this committee. I would like to once again thank you for your attentiveness, your patience, and your commitment to this very important issue. If the committee has any questions for me either now or at a future date I would be more than happy to try and answer them.

Re: Testimony by Tim Lowry for the Owyhee Cattlemen's Association  
And the Owyhee County Land Use Planning Committee on H.R. 1713.

Dear Mr. Chairman and Representatives:

The comments that I am making today on H.R. 1713 represent the view and policy of the Owyhee Cattlemen's Association (OCA) and the Owyhee County Land Use Planning Committee (OCLUPC).

I want to begin by expressing the appreciation of the OCA and OCLUPC to Rep. Helen Chenoweth for her steadfast support in protecting her constituents rights and for working to protect the stability of the western livestock industry. We are certain that there are others on this subcommittee who also served their constituents and the industry as well, and we thank you. We are also indebted to Owyhee County Extension Agent Chad Gibson, Ph. D. and OCLUPC consultant Fred Kelly Grant, J. D. for their invaluable assistance and contributions.

Subcommittees of the OCA and OLUPC met on Sunday night July 9, 1995 to review the revisions that have been made to the bill following the Senate hearing and were very pleased with the changes that have been inserted by the Senate.

The position of Owyhee County that the property rights and interests, due process rights, and stability of the western livestock industry must be protected has remained constant from the beginning. The process of identifying the portions of the original bill that needed amending began with a working meeting with Rep. Chenoweth the night we received a copy of the bill. Dr. Gibson and I then flew to Albuquerque, New Mexico the next morning and met with the New

Mexico Public Lands Council. An extensive list of recommended changes was developed at that meeting and forwarded to our respective congressional delegations. Several of those recommendations were incorporated into the bill before it was introduced. After the bill's introduction, members of the OCA and OCLUPC met in Boise, Id. with leaders of the Idaho, Oregon and Nevada Cattlemen's Associations to review the bill and identify the concerns that remained. A number of important issues remained and were presented to the Senate Subcommittee on Forests and Public Land Management. We are pleased that it now appears that about 80% of our original recommendations have been adopted and most all of the more important issues have been resolved.

I would like to bring to your attention three sections of the bill that we believe still need to be amended.

First, the provision of Sec. 137 (c) (3) to assess a surcharge for the authorized pasturing of livestock owned by a person other than the permittee or lessee is discriminatory and punitive. This provision will penalize those who can least afford it and will undermine the economic stability of many ranches. If the rationale for the surcharge is for revenue enhancement, the results will likely be disappointing. When permittees or lessees who depend on authorized pasturing of livestock owned by others to make use of their permit cannot afford the fee, they will not be able to run livestock and no revenue will be collected.

This provision will not only penalize and place many ranchers in economic jeopardy, it will also be contrary to sound resource management if it eliminates grazing from the affected allotments. As Dr. Wayne Burkhardt, a renowned range scientist, and other range scientists have pointed out, grazing is a natural and necessary component of healthy, sustainable range-lands.

On some allotments in Owyhee County that have been seeded to crested wheat grass the BLM is insisting that the permittees use them heavier than they are able to with their own cattle. The permittees have been told that if they don't make the desired use the BLM will bring in additional livestock. If the permittees were to lease livestock in order to comply with the BLMs request for more use, why should they be penalized?

Secondly, establishing standards and guidelines on a state or regional level as mandated in Sec. 105 (a) will create nearly as many problems as would national standards or guidelines.. During the hearings on Rangeland Reform '94 many range scientists gave a loud and clear message that standards and guidelines were detrimental to good range management when applied over a wide area. Too many differences exist within a state or region to establish workable standards or guidelines at levels larger than an allotment or at most, a Resource Area.

Thirdly, Owyhee County does not believe that Sec. 137 (c) Grazing fees will finally solve the fee issue and would encourage you to examine the recommendation submitted from the county as a simple, equitable and lasting solution.

I want to conclude by again thanking Rep. Chenoweth and the committee for the progress that the bill has made and thank you Mr. Chairman for the opportunity to offer this testimony.

Sincerely,

Tim Lowry



STATEMENT OF  
MARSHA TUROCI, FIRST DISTRICT SUPERVISOR AND CHAIR OF  
SAN BERNARDINO COUNTY BOARD OF SUPERVISORS

To:

U.S. House of Representatives  
Committee on Resources  
Subcommittee on National Parks, Forests and Lands  
At Hearing on H.R. 1713, the  
Livestock Grazing Act  
Washington, DC  
July 11, 1995

Thank you for the opportunity to address the Subcommittee considering reform and stability of this important topic throughout the West. We have, for too long, fought over grazing issues on public lands. It is time to recognize that range livestock grazing, like all agricultural pursuits, has a place in the economic scheme and fabric of the West and the United States, that it can and is managed under professional principles, and that we cannot afford to see this aspect of our economy and heritage "reformed" out of business simply because the ranchers use public lands for all or part of their operations and certain elements of society feel that this is somehow wrong. Grazing of rangelands, whether public or private, is an integral part of the livestock economy throughout the West, Midwest and South.

The public lands are important to all the people, and they must remain an integral part of the base in the West, and continue to provide their values to all of the people.

San Bernardino County is the largest county in United States. It also has perhaps the largest area of public lands within any political subdivision, over 6 million acres under BLM administration and significant other areas of former public lands now administered by the National Park Service and Department of Defense.

Public lands in the County are home to both cattle and sheep interests. The sheep utilize spring forage which is frequently abundant on our deserts, as they have for over 100 years. Cattle are grazed from ranches in the County in surrounding mountains and foothills throughout the First District, which I represent. Again, this has been going on for over 100 years.

We recognize that much of the history of grazing in the West has been colored by an initial history of non-regulated activity. But times change, and so does science, and we have the ability and the will, to properly manage our natural resources. The BLM has been doing this for years, and formalized management with the Desert Plan in 1980 which provided conservation, thresholds for turnout, and a variety of other provisions to stabilize the livestock within the County and the Desert region.

Unfortunately, over the past 15 years, our ranchers have been bombarded with added problems associated with their use, which should have been long-ago resolved. We hope

that this attempt by Congress will affirm that livestock do have a place on the public lands, and that ranchers do have continuing recourse to appeal arbitrary and impractical decisions, and have them stayed during the appeal and resolution process.

These actions have included restrictions on livestock grazing by Federal agencies under the Endangered Species Act as it is currently being implemented (e.g. desert tortoise restrictions have effectively eliminated spring grazing over much of the region even in the face of evidence that tortoises and livestock co-existed in even an unregulated environment for over 100 years!), as well as actions taken by past Congresses, such as enactment of the California Desert Protection Act which placed over half of the County's public land cattle grazing under National Park Service administration.

I come before this subcommittee testifying in favor of the proposed legislation.

- It will bring renewed stability to public land grazing, and send a message to administrators that the Congress has once again affirmed the importance of this historic and economically important use.

- It will eliminate, or at least reduce, the chances of management and administration of public land grazing being arbitrarily "reformed" under single-use agendas.

- It appears to be a logical and natural evolutionary step in the progression of grazing administration which began with the Taylor Grazing Act in 1934, continued through FLPMA in 1976 and PRIA in 1978. It is sad that Congress must continue to revisit these issues, but perhaps each generation must reaffirm that which is important--and grazing use of public lands is as important to our ranch families as it is to our heritage.

- It establishes better balance on the Resource Advisory Councils than those recently chartered by the Secretary. By not specifying a split between environmental and user interests, it assures that all parties with a stake in public land management issues can be at the table.

- It makes a clear statement regarding ownership of private investments in range improvements on public lands, together with recognition of private holding of water rights under State law. This will remove any ambiguity regarding title should public lands be disposed of or transferred to another agency.

- While I take no position in the grazing fee issue formula proposed, I do hope that this will become the final word in the matter. Too long have ranchers faced uncertainty regarding their own expenses, in a market over which they have no control. It is important that fees not only serve as rent but they reflect the costs of operation, the lack of full security of tenure, the public nature of the lands which livestock share with a variety of other users, and that a portion of the fees continue to be returned to the County. In our County, we spend the money back on the land, with advice and counsel from our ranching community. It has worked for us. We hope it can continue.

We do offer two proposals for inclusion within the Act:

1. For the sake of consistency we urge that the National Forest System also be administered under this Act. In other words, the term "Secretary" should be expanded to include the Secretary of Agriculture. This will assure consistency between BLM and Forest Service administration and fees. Since many of our ranchers use lands of both agencies, it is important that the United States government be consistent in its policies, which include administration as well as grazing fees, management, title to improvements, and other factors.
2. For the sake of San Bernardino County, we propose an addition to Section 124 which will redress an issue which was created by the last Congress. We suggest the addition of a paragraph (c) and the inclusion of wording to the following effect:

Areas of public lands which Congress has designated to be units of the National Park System since January 1, 1994, and in which grazing was specifically authorized in the enactment to continue, shall be administered under the provisions of this act, including licensing and permitting by the former agency, setting of and deposit of grazing fees, installation and maintenance of range improvements, and title thereto, and retention of appeal rights to the Interior Board of Land Appeals under the Administrative Procedures Act.

The above text is proposed for the purpose of amending Section 510 of the California Desert Protection Act which placed many of our cattle ranchers under the National Park Service within the newly created Mojave National Preserve, and their rules and regulations, and which eliminated their appeal rights except within the Park Service hierarchical structure, created ambiguity regarding ownership of existing range improvements, and has created a great deal of uncertainty regarding coordination with the US Fish and Wildlife Service regarding range management and desert tortoise habitat coordination.

Relative to the text of the Bill we suggest that the definition of "Affected Interest" be made more specific in that the role is advisory only. Since management of allotments must be consistent with the regional Resource Management Plans, which are completed with full public review and input toward decisions including livestock grazing allocations, we see little to be served by allowing the public to have detailed oversight into the professional intricacies of livestock movement and management on the allotments. Input to reduce specific conflicts is appropriate. Input to raise and debate, in another forum, the prejudices and antagonisms which some have on allocating of grazing should be limited.

Relative to the text of the Bill, we suggest that the definition of "Monitoring" be made more explicit and include the concept of "over time." This will assure that decisions are not made on the basis of a single snapshot, which might not reflect long term trends and effects of management on the resources and its uses.

Thank you for the opportunity to participate. I would be happy to expand on any of the points in the testimony or provide additional details which the Subcommittee might find helpful.

## LIVESTOCK GRAZING ACT OF 1995

BY LINDA TALLAFERRO

I'M LINDA TALIAFERRO, PRESIDENT, WYOMING COUNTY COMMISSIONERS ASSOCIATION. I AM A COMMISSIONER FROM SWEETWATER COUNTY WYOMING.

WE HAVE BEEN INVOLVED WITH RANGE LAND REFORM 94 FROM THE START, MANY COUNTY COMMISSIONERS FROM WYOMING HAVE TESTIFIED AGAINST IT. THE WCCA AS A BODY HAS TAKEN A STAND TO OPPOSE RANGE LAND REFORM 94.

THEREFOR IT IS GREAT PLEASURE FOR ME TO BE HERE TODAY TO VISIT WITH YOU ABOUT THE "LIVESTOCK GRAZING ACT".

I AM GOING TO SPEAK WITH YOU ABOUT WHAT WE BELIEVE THIS "ACT" WILL DO TO HELP KEEP WYOMING AND OTHER WESTERN STATES THAT HAVE PUBLIC LANDS HEADED IN THE RIGHT DIRECTION.

WE FEEL THAT IT IS TIME TO PUT THIS ISSUE TO REST AND ARE HOPEFUL THAT THIS ACT WILL HELP TO DO THAT.

AS COMMISSIONERS IN WYOMING WE WORK, LIVE, AND SOCIALIZE AND ARE IN TRUTH THE VERY PEOPLE THAT THIS BILL WILL EFFECT. WE BELIEVE IT IS TIME TO LET THIS INDUSTRY HAVE A STABLE ENVIRONMENT TO ACT WITHIN. DEALING WITH THE MARKET IS BAD ENOUGH BUT HAVING TO DEAL WITH A BUREAUCRACY THAT YOU DON'T KNOW FROM DAY TO DAY. YEAR TO YEAR, WHAT THEY ARE GOING TO COME UP WITH NEXT, IS ASKING TO MUCH. IT IS TIME TO MOVE THIS ISSUE INTO THE TWENTIETH CENTURY, AND HOPEFULLY BE READY FOR THE TWENTY-FIRST CENTURY.

AS COMMISSIONERS OUR GOALS ARE NOT MUCH DIFFERENT THAN YOURS- TO KEEP A STABLE TAX BASE. TO DO THAT WE HAVE TO WORK TO KEEP INDUSTRY STRONG, ALL INDUSTRIES.

THE AGRICULTURE COMMUNITY OFFERS SO MUCH FOR EVERYONE, FOOD, OPEN SPACES, USE OF A PRODUCT ( RANGE GRASS) THAT ONLY

BENEFITS EVERYTHING CONCERNED WHEN USED PROPERLY, TO SAVE A LIFE STYLE THAT IS SO VERY IMPORTANT TO AMERICA. NOT ANY MORE IMPORTANT THAN ANY OTHER, BUT JUST AS IMPORTANT.

THE AG DOLLAR THAT COMES INTO A COMMUNITY NINETY-NINE TIMES OUT OF A HUNDRED STAYS IN THAT COMMUNITY. THERE ARE SEVERAL COUNTIES IN WYOMING AND OTHER WESTERN STATES THAT AGRICULTURE IS THE MAJORITY OF THEIR TAX BASE. SO WHEN THIS ISSUE IS ADDRESS AND KICKED AROUND YOU ARE TALKING ABOUT COMPLETE COMMUNITIES NOT JUST THE PEOPLE THAT RAISE THE SHEEP AND CATTLE. YOU ARE TALKING ABOUT SCHOOLS, HOSPITALS, CAR DEALERS, CHURCHES, GROCERY STORES. MAIN STREET WYOMING IS BEING DECIDED WHENEVER THIS ISSUE IS DISCUSSED OR WRITTEN ABOUT.

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TO GO OVER SOME OF THE FUNDAMENTALS OF THE ACT ITSELF THAT ARE VERY IMPORTANT AND THAT WE AGREE WITH:

1- HAVING THE STANDARDS AND GUIDELINES ESTABLISHED ON THE STATE OR REGIONAL LEVEL IS EXTREMELY VITAL. LETTING THE PEOPLE THAT HAVE TO LIVE WITH THE SITUATION PUT TOGETHER THE PLANS UNDER WHICH TO OPERATE AND I MEAN "INVOLVE ALL GROUPS ", LOCAL CONTROL AND INPUT IS ESSENTIAL.

2- WATER RIGHTS: SHOULD BE CONTROLLED, MAINTAINED, ADMINISTERED IN ACCORDANCE WITH STATE LAW.

3- THE 25% SUBLEASING CHARGE ON EVERYONE UNLESS THE SUBLESSEE IS AN IMMEDIATE FAMILY MEMBER WE BELIEVE IS APPROPRIATE

4- WE LIKE THE FACT THE LGA ACCEPTS THE PROPOSAL TO ESTABLISH RESOURCE ADVISORY COUNCILS AND THAT THEY HAVE TO BE RESIDENTS OF THAT STATE AND LOCAL COMMUNITY. REQUIRING EDUCATION, TRAINING AND EXPERIENCE IN RANGELAND ISSUES TO BE AN EXCELLENT IDEA AND EXTREMELY SIGNIFICANT.

5- GRAZING FEE FORMULA: THIS FORMULA WOULD INCREASE THE AMOUNT OF AUM. NONE OF US LIKE INCREASES IN COST, THAT IS A GIVEN, BUT THIS INCREASE WILL HELP SOME TO OFF SET OPERATION COSTS AND HOPEFULLY WILL NOT HURT TO MANY. THIS FORMULA IS MUCH BETTER THAT THE ONE THEY OPERATE UNDER NOW.

ONE AREA OF CONCERN:

THAT IS ABOUT PRIVATE PROPERTY RIGHTS WHEN THE LANDS ARE INTERMINGLED. AS A COMMISSIONER I DEAL WITH ZONING ISSUES ON A REGULAR BASIS. I HAVE TO BE VERY CAREFUL WHEN ENACTING AN NEW ZONING REGULATION, TO CONSIDER ALL PROPERTY THAT IS ADJACENT AND JUST WHAT EFFECT THE NEW ZONING WILL HAVE ON IT. WHEN REGULATIONS ARE WRITTEN TO GOVERN ONE SECTION OF PUBLIC LAND IT WILL HAVE A DIRECT EFFECT ON THE ADJACENT LAND. MAYBE THIS SHOULD BE ADDRESSED IN MORE DETAIL.

WE IN WYOMING ARE VERY PROUD OF OUR PUBLIC LANDS, WE WANT TO KEEP THEM AS BEAUTIFUL AS POSSIBLE AND TO DO THAT WE NEED TO USE THEM PROPERLY.

I AGREE WITH THE STATEMENT ON PAGE 3, STARTING ON LINE 17 "THAT THE FEDERAL RANGELANDS ARE IN THE BEST CONDITION THEY HAVE BEEN IN DURING THIS CENTURY AND THAT THEIR CONDITION CONTINUES TO IMPROVE." WE HAVE HAD WONDERFUL MOISTER THIS SPRING AND SUMMER AND THE RANGELAND IS ABUNDANT WITH PLANT LIFE.

WE BELIEVE THIS ACT WILL MOVE US IN THE RIGHT DIRECTION.

THANK YOU FOR YOUR TIME AND EFFORT.

LINDA TALIAFERRO, PRESIDENT  
WYOMING COUNTY COMMISSIONERS ASSOCIATION  
P.O. BOX 189  
FARSON, WY 82932-0189  
307-273-5714 OR 872-6331  
FAX 307-273-5714

## HARVEY BARNES TESTIMONY

### JULY 11, 1995

My name is Harvey Barnes of Jiggs, Nevada and I am President-Elect of the Nevada Cattlemen's Association.

The Livestock Grazing Act offers the opportunity for livestock grazing to continue on public lands using wise and sound management practices for the stewardship of rangelands. The rural West needs this type of security for stability and its future.

Cooperative public land management has caused vast improvements in range conditions over the past half century. The need exists for continued range improvements, solid resource management and use of this resource to care for our ever-increasing population.

The Nevada Range Livestock Industry supports the concept of this legislation. The Association has reviewed SB852 and HR1713. As this legislation has such a direct effect on our industry, we have some points for your consideration. These points are as follows:

#### TENURE:

The fifteen year tenure proposed in the bill is the highlight of the bill, because it assures long term stability to the industry. Lack of tenure has been the major problem encountered in public land grazing. In Nevada, where 87% of the land is public land,



dependency on the use of those lands to make economical use of the private lands is high. Therefore changes in the policies for use of the public lands has direct immediate effects on the private lands used for livestock production and local economies. Since the inception of public land grazing administration in 1934, we have not been able to obtain assurance of tenure, even through the permit system. We believe that with the improved condition of the ranges, the advancement of the range sciences during the past two decades and the necessity to stabilize the range livestock industry, reliable tenure must be provided. Such tenure will also allow financial institutions to provide adequate long term loans for purchases and improvements on ranch and range lands to enhance rural economic stability and the environment.

#### ADVISORY BOARDS:

We feel that the Grazing Advisory Council proposed in Section 177 of SB852 and HR1713 is essential to effective management at the local level. For many years, the livestock industry had an elected Grazing Advisory Board with mandatory meetings to consider all aspects of grazing management. People who participated in the process, both Federal employees and private individuals felt that these Boards provided a valuable service. We believe that the proposal should include the opportunity to resolve differences which arise from decisions of the authorized officer prior to the final decision. This can be accomplished by a mechanism in which the authorized officer and affected user would appear before the

Council which would hear both sides of the issue and then make a recommendation to the agency. All actions of the Grazing Advisory Council in this proposal and the Bill should be by a two-thirds vote instead of unanimous as set forth in the Bill. We believe that the same vote should apply to the Resource Advisory Council.

STANDARDS AND GUIDELINES:

Standards and guidelines were first proposed by Secretary Babbitt in his Rangeland Reform. They appeared to remove any incentive for progressive range management and improvements. We support establishing regional and state standards and guidelines. However, we believe that standards and guidelines should be established with full consideration to forage production, soil betterment, watershed management, and coordination with the production capabilities of the private land dependent upon the public land grazing. Standards and guidelines must recognize the need for consumption of the renewable resource consistent with the production capabilities of the public and private lands within the region of consideration.

We wish to express our appreciation to this Committee and the various representatives of the States who are making the tremendous effort to initiate legislation which will benefit not only the public lands but also the private sector which is directly effected by decisions for public land administration.

We believe that passage of this Bill will begin to provide some basis of stability in public land grazing and therefore, we support this concept. We very much appreciate the opportunity to comment.

\*\*\*END\*\*\*



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**STATEMENT TO THE  
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS  
OF THE  
HOUSE RESOURCES COMMITTEE  
ON  
THE LIVESTOCK GRAZING ACT**

**Presented by  
Doug Breese  
American Farm Bureau Federation  
Oregon Farm Bureau Federation**

**July 11, 1995**

STATEMENT TO THE  
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Presented by  
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Oregon Farm Bureau Federation

July 11, 1995

Good morning, Mr. Chairman and members of the committee. My name is Doug Breese, and I am a fourth generation cattle rancher from Prineville, Oregon. I am President of the Oregon Farm Bureau Federation, and I am testifying today on behalf of both the American Farm Bureau Federation and the Oregon Farm Bureau Federation. Our ranch is a 400 head cow-calf operation that I run with my children, who will be the fifth generation on the land. I served 10 years on the Prineville BLM District's Multiple Use Advisory Council and two years on the National Public Lands Advisory Council until it was disbanded by the present administration. Livestock from our operation will use federal lands managed by the Bureau of Land Management (BLM) and the Forest Service at various times of the year. These lands, in some cases, are intermingled with our private lands and we must be able to use them to properly manage the land's resources and economically manage our ranching business. The use of federal lands is an important and integral part of our ranching operation.

Congress and the federal agencies have been debating Western ranching livelihoods for decades, and have been making piecemeal changes to policy over several years. Rangeland Reform is the latest, and the most sweeping, of those changes. Farm Bureau believes that passage of H.R. 1713, the Livestock Grazing Act, will give me and ranchers across the West the certainty and stability that we need to continue operating in an economically viable manner.

The bill is in no way intended to challenge or change the multiple use policies of the agencies managing federal lands or weaken the ability of those agencies to manage the natural resources on those lands. The bill addresses the livestock grazing management processes and/or policies for these lands. Rangeland Reform also addresses many of the same policy issues as the bill, but does so in a way that makes it virtually impossible to manage and sustain productive rangelands and watersheds.

As federal land users, we recognize that we have a responsibility to take care of these lands and keep them productive for livestock, wildlife and other uses. Our livelihoods depend on

the condition of those lands. Studies have shown that the federal lands are in better condition now than at any time during the twentieth century. Such improvement is particularly obvious where I live. Permittees, with the encouragement and support from some of the more creative agency land managers, have been able to overcome many of the policy and paperwork generated handicaps to good management. These permittees have spent a great deal of time and money in successful efforts to improve their allotments, making changes that benefit livestock, wildlife, and the overall condition of the rangelands.

Livestock permittees understand that the continued improvement of rangeland conditions depends on a partnership with the federal agencies. The LGA will foster and promote that partnership in a manner that is fair to both the permittee and the public.

By contrast, the Rangeland Reform regulations will make it more difficult for permittees to continue this improvement. By taking title to new range improvements and to new water rights, the Department of Interior is eliminating any incentive for permittees to undertake new range improvement or water development projects. For those who want to undertake such projects, banks are reluctant to lend money for them if the permittee does not have some ownership interest. The Livestock Grazing Act recognizes a proportional ownership interest in the permittee to the extent that he has contributed to it, thus balancing the interests of both the government and the permittee.

Federal administration of rangelands in our area is being strangled by red tape. Even though national forests and BLM resource areas prepare Environmental Impact Statements as part of their planning procedures, agency personnel are required by court and administrative decisions to also prepare environmental analyses for every action implementing those plans, including range improvements and reissuance of grazing permits. As a result, agency personnel are spending much more time doing paperwork than in on-the-ground range management. Personnel in our area are doing everything they possibly can, but they are hamstrung by exploding and largely duplicative paperwork requirements.

Rangeland Reform would perpetuate and even expand these requirements. Under this proposal, NEPA documentation would be required for all permit decisions and all range improvements, regardless whether the same concerns had been addressed in the resource plans. And this committee is well aware of the scrambling being done by the Forest Service to complete NEPA analysis on its 4,300 permits that expire at the end of 1995.

The Livestock Grazing Act addresses this problem in a way that maintains the integrity of NEPA while removing duplicative and burdensome paperwork requirements. By providing that issuance of grazing permits or leases that are consistent with resource plans need not undergo a second round of duplicating NEPA review, the Livestock Grazing Act will get agency personnel out of the office and back onto the ground.

Rangeland Reform attempts to develop "Standards and Guidelines" for rangeland

management nationwide. Rangeland Reform seeks to use the two terms interchangeably, and in place of setting good land use goals and site specific objectives. "Standards" and "guidelines" are not the same thing, nor are they goals and objectives. Guidelines provide general policy that provides flexible directions to achieve general land use or management goals. Standards are more specific, and are used to accomplish site specific objectives in line with the goals. Rangeland Reform's use of "standards and guidelines" will in the end continue a process where specific land management decisions are made in Washington, D.C., instead of on the ground by competent agency staff with input from the local land user. Rangeland Reform will stifle adaptive management by creative people to accomplish specific objectives, and instead lead to a form of "cookbook" management that will doom our range resources.

The LGA seeks to limit the use of standards and guidelines. It also directs their development to the state or regional level in conjunction with the state department of agriculture and other appropriate agencies or institutions. Amendments may be offered to more clearly define the standards and guidelines and how they relate to goals and objectives.

These are only a few of the problems created by Rangeland Reform that will be solved by the Livestock Grazing Act. The bill seeks to accommodate the concerns and the needs of both the livestock permittee and the general public that has entrusted us with stewardship over their lands. While there may be parts of the bill that we might not totally agree with, the bill is fair. More importantly, the bill puts an end to the piecemeal and sometimes conflicting additions to grazing policy by comprehensively updating federal lands grazing policy in a unified manner.

But the ultimate yardstick for measuring the merits of the bill is whether it will continue to result in improvement of our federal rangelands. It is clear from the few examples that I have cited that Rangeland Reform will not work on the ground. The Livestock Grazing Act will continue to forge the partnership between agency and permittee by providing the framework necessary for permittees to continue operating in a viable manner. At the same time the Livestock Grazing Act will foster the continuing improvement of range conditions for the benefit of all.

We wish to thank the chairman of the subcommittee for holding hearings on the bill, and we also wish to thank the sponsors and co-sponsors of the bill for the time and energy spent in drafting a bill that provides a common sense grazing policy that benefits everybody.

I will be happy to answer any questions the committee might have.

Testimony of Robert M. Skinner, Oregon Rancher  
Before the Subcommittee on National Parks, Forests, and Lands  
Committee on Resources  
United States House of Representatives  
Washington, D.C.

On H.R. 1713  
The Livestock Grazing Act

July 11, 1995

Chairman Hansen and members of the Subcommittee, thank you for this opportunity to talk to you today. It is very hard for a rancher such as myself who lives nearly 3,000 miles from here to grasp the fact that our destiny can be determined here in Washington D.C.

I am a rancher from South Eastern Oregon. Our ranch currently leases a permit to graze livestock from the Bureau of Land Management (BLM) primarily from April through mid-September. I am Chairman of the Public Lands Committee of the Oregon Cattlemen's Association. I also serve as a Public Lands Council delegate from the State of Oregon.

The comments I am making today on H.R. 1713 are consistent with the views of the Oregon Cattlemen's Association members and the Public Lands Council leadership in the State of Oregon. Also, I feel it is important to remind you the livestock industry as a whole did sound a strong voice of support, with the Presidents of all Western States Cattlemen's Association's voting to support H.R. 1713.

It is with a very strong commitment to the well being of the lands (both public and private), that I talk to you today. My children are the 6th generation of Skinners to live and work on our ranch in Jordan Valley. The well-being of the land is absolutely essential for us to survive over the long haul.

We strongly support H.R. 1713 because in Oregon we landowners, especially those of us who hold federal grazing permits, are literally under siege from special interest organizations that simply want all economic use of land stopped at any cost, with little or no consideration for the people who are affected. I also would like to point out that in many cases scientific data is overlooked or disregarded. Many times rules, legal interpretations, or just interpretations of statute such as the Endangered Species Act, the Clean Water Act, Wild and Scenic Rivers, Wilderness, and NEPA, are used to keep our industry in a constant state of turmoil, uncertainty, and stress.



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With increasing frequency ranchers, farmers, and other property owners such as myself are forced into the stressful, expensive and uncomfortable position of defending our livelihoods in the courts of law, debates with press, and the legislative process such as this process today.

Our people are fighting for their livelihoods. I have seen families give until they simply have no more. People are having a hard time making ends meet financially. When there is no more to give, they are perceived by others as quitters and in retreat, thus not only is a financial hardship expressed, but equally bad - a social hardship comes into play. Simply put, we need to legislate stability back into the rural west. Our lending institutions would also welcome a more stable atmosphere.

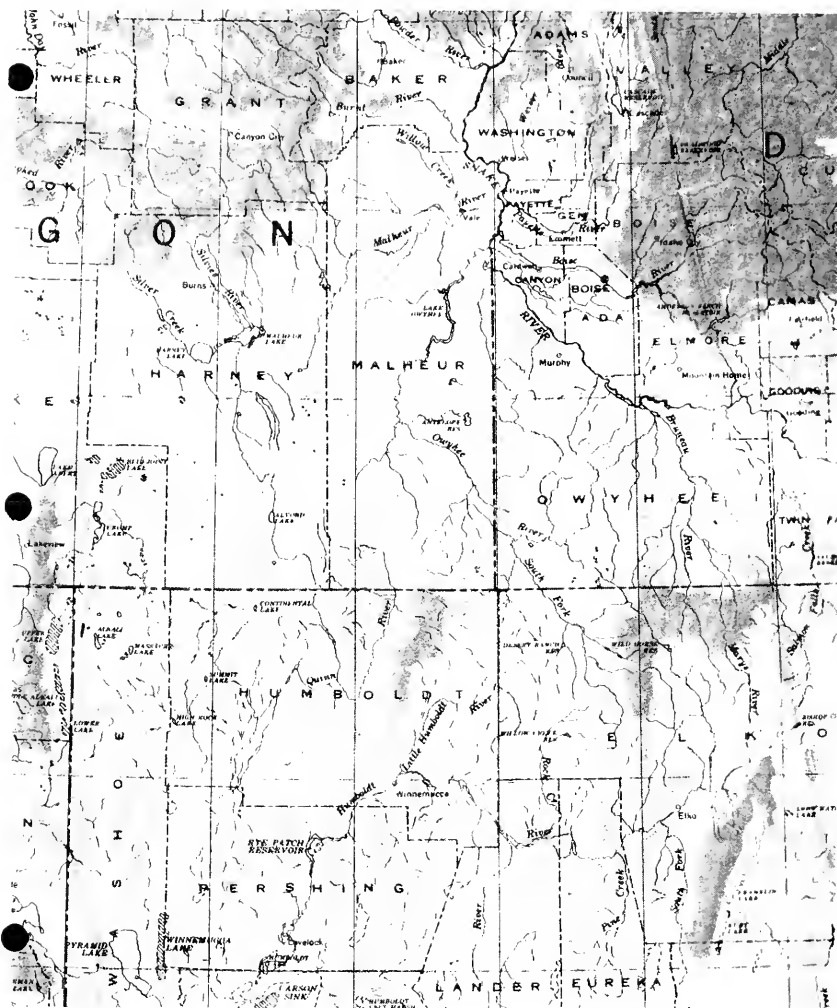
We believe H.R. 1713 is the most significant piece of legislation to be introduced since the Taylor Grazing Act of 1934 and will provide much needed stability for our people and industry.

It is very ironic that I am speaking to you today about a bill that we hope will stabilize public lands grazing. Just over 70 years ago my Grandfather and Great-Grandfather were fighting the same battle -- they were very active in trying to pass legislation to provide stability as well as protection from the abuse of the public lands we were then and are today, so dependent upon. I have listened to my dad tell stories of the pre-Taylor Grazing Act days when his job as a youngster was to spend all day, day after day, keeping the bands of sheep out of our private ground. The only distance between bands was what was necessary to keep them from mixing. The owners of these livestock in most cases owned no property, therefore they were motivated to get all they could while they could, then move on. Due to good management practices by grazers, the "range" has done a remarkable job of recovering from the abuse it endured around the turn of the century and continues that process now.

STABILITY is essential, the land cannot endure short term gain. It is imperative that this nation strive to provide as much tenure as possible, thus people will be motivated to improve the land and thus improve themselves.

We fully realize the countless hours many Congressmen and staff people have put into the L.G.A. We would like to take this opportunity to thank all of you. The L.G.A. is not all that the livestock industry wants, but we do trust you, our Congressmen, to act in our best interest, which we sincerely believe is in the best interest of the land and of this Nation as a whole.

Thank you.



Testimony

on behalf of the

**ASSOCIATION OF NATIONAL GRASSLANDS**

in regard to

**H.R. 1713**

**The Livestock Grazing Act**

submitted to

**House Resources Committee  
Forests and Public Land Management Subcommittee**

submitted by

Keith Winter

President  
Association of National Grasslands

July 11, 1995

Mr. Chairman and members of the Subcommittee, I am Keith Winter, President of the Association of National Grasslands (ANG), a family rancher from Cartwright, North Dakota, and a member of the McKenzie County Grazing Association. I am honored to be here today and want to express as an individual and as representative of the ANG my great appreciation for the efforts you, our own Representative Earl Pomeroy and Senators Byron Dorgan and Kent Conrad and others have made to successfully resolve the "Western Range Problem."

The Association of National Grasslands supports the legislative process designed to send, as quickly as possible, the Livestock Grazing Act of 1995 to President Clinton for his approval. In principle, we support all aspects of H.R. 1713. Today, I want to limit my comments to Title II however.

"Title II—Grassland," as currently formulated, would remove the National Grasslands from the National Forest System and, thereby, from National Forest regulations. As President of the Association of National Grasslands, and as the representative of the ranchers and grazing associations who use those perennial grasslands for grazing purposes, ensuring thereby the economic viability of our ranch units, I am here to testify in absolute support of Title II and its purpose.

Title II is entirely consistent with the purposes under which our National Grasslands are administered under the Bankhead-Jones Farm Tenant Act of 1937 (50 Stat. 525, 7 U.S.C. 1010-1012), and with the multiple uses of land and water resources assured through Sec. 31 of that Act. Over the past 60 years, administering federal agencies have interpreted the Bankhead-Jones and related statutes to mean that our Grasslands are to be managed as a "demonstration of good grassland agriculture" and resource conservation through cooperatively regulated domestic livestock grazing exerting "a favorable influence for securing sound land conservation practices on associated private lands" (36 CFR Ch. II Sec. 213.1(d)).

There is considerable precedent and clear rationale for the transfer of certain acquired federal lands from the jurisdiction of the Forest Service back to the direct jurisdiction of the Secretary of Agriculture or, for that matter, to any other federal, state, or local government or unit thereof.

These transferable lands are the "New Deal" era Land Utilization (LU) grazing projects renamed National Grasslands through the Secretary of Agriculture's June 20, 1960 Regulation (*Federal Register*, June 24, p. 5845). During the 1930's and early 1940's, many decades after the withdrawal and reservation of the National Forests from the public domain, about 11.3 million acres of patented land were acquired through purchase, condemnation, and other procedures pursuant to President Franklin D. Roosevelt's "submarginal" land acquisition and population resettlement programs. Including National Grasslands in the National Forest System Constrains Achievement of Congressional Intent in Title III of the Bankhead-Jones Farm Tenant Act

The purposes for which the National Forests were reserved are quite unlike the policy goals of the Depression era land acquisition program. While the 1897 Organic Act (Ch. 2, 30 Stat. 11, 16 U.S.C. 475) established timber production and watershed protection as the primary purposes of the reserved National Forests, the LU lands were acquired for the primary purpose of land-use adjustment—there is virtually no commercial timber production on any of the National Grasslands.

The primary social policy objectives of the original land acquisition program were (1) to give "stranded" Depression era farm owners and tenants an opportunity to relocate, (2) to restore the rainfall short, dryland-farmed, acquired lands to more suitable uses, especially sustainable livestock grazing and (3) to harmonize the uses of acquired and intermingled private lands.

Thus, the acquired LU lands had as their primary purposes soil and water conservation, secure human occupancy, and sustainable domestic livestock grazing. The withdrawn and reserved National Forests, while sharing as a primary purpose water conservation, did not have human occupancy as a policy objective; and further, while the Forest Service was to manage the National Forests primarily for timber production, the LU lands were to be managed primarily for the production of livestock products.

The LU program objectives were codified with the passage of the Bankhead-Jones Farm Tenant Act of July 22, 1937. The primary public policy objectives served by that Act were to achieve social stability: to create the Farmers' Home Administration, to promote more secure occupancy of farms and farm homes and to correct the economic instability resulting from forms of farm tenancy then prevalent. Title III of that Act pertained specifically to the LU lands, authorizing the Secretary of Agriculture to: (1) retire patented lands not suitable for cultivation and promote more stable forms of use; (2) implement soil and water resource conservation projects on the acquired lands; and (3) administer the LU project lands pending their final disposition. Unlike the National Forests, the LU lands were neither withdrawn nor reserved.

### A Summary of the History and Evolution of the National Grasslands

In October 1938 administrative responsibility for the 7+ million acres of acquired lands found to be permanently best suited for domestic livestock grazing was shifted from the USDA Farm Security Administration to the Soil Conservation Service (SCS). Through 1953, the SCS administered the LU grazing projects through cooperative management agreements with local grazing associations and soil conservation districts. During this 15 year period, the SCS spent about \$97 million on range and closely related improvements, the purpose of which was to enhance livestock grazing carrying capacity.

The SCS adopted a decentralized, project-oriented management style in its administration of the LU grazing projects. Grazing permits and leases were issued primarily to local livestock associations, and secondarily to individual ranchers. Limitations were placed

on the maximum amount of grazing preference given any one rancher. Each district had a SCS employee as its supervisor, while boards of directors elected from the ranks of the local permittees hired technicians and generally assumed responsibility for day-to-day operations including maintenance of all improvements and for adjudication of the district forage allocations.

In January 1954, administrative responsibility for the LU projects was shifted from the SCS to the Forest Service, apparently because it was then felt that the Forest Service was USDA's land management agency. The resource conservation projects had achieved their land and water conservation objectives, and through cooperative management with local grazing districts and their boards human occupancy and economic stability had been assured. There remained no reason for continued SCS administration, according to the Forest Service and USDA officials at that time. There may have remained no reason for continued federal retention of the lands as well, but the Forest Service would not address that question.

Interagency transfers of jurisdiction subsequent to 1953 had been authorized under the auspices of the Transfer Act of February 1954 under which the LU grazing projects were transferred from the jurisdiction of SCS to the Forest Service. Transfers could be initiated by BOB (OMB) or by application of the Secretary of Agriculture or a Congressional delegation in response to desires of constituents. The Secretary of Agriculture would have the right to endorse or reject any such initiative. Only if endorsed would the application be forwarded to BOB (OMB). Ultimately, between 1954 and 1963 over 2.5 million acres of LU lands were so transferred, reflecting the fact that the acquired grazing lands more closely resembled BLM-administered public domain than Forest Service-administered National Forests.

Under Forest Service administration, the name of the remaining National Forest administered LU grazing projects was changed to National Grasslands by Secretarial Executive Order (Federal Register, June 24, 1960, p. 5845). In 1963, by Secretarial Regulation (Federal Register, June 19, p. 6268), it was declared that the National Grasslands would henceforth be permanently held by the Department of Agriculture. The reason for this Regulation apparently was to thwart transfers of jurisdiction of LU Grazing Project/National Grasslands from the Forest Service to other federal, state, and local agencies and units of government. There was, however, no statutory authority for the permanent retention of the National Grasslands by the Forest Service or, for that matter, by any other public agency.

A decade later, the National Grasslands were shoehorned into the National Forest System via a phrase in Sec. 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

### Forest Service Administration Fails to Achieve Congressional Intent

As a result of this bureaucratic and political maneuvering, each separate grassland is administered by a National Forest and is subject to the same regulations, restrictions, and management program requirements as the administering National Forest. The local management system has changed from cooperative, project-oriented management to more active and direct, process-oriented management. Grazing as a predominant land use has weakened, and non-economic (particularly amenity) use is increasingly emphasized.

Thus, through a combination of Administrative (Secretarial Regulations) and congressional initiatives, the National Grasslands of 1995 bear only a superficial resemblance to the LU grazing projects of earlier years. The lands are still grazed under grazing permits, but grazing lease contracts have been abolished by the Forest Service. Domestic livestock grazing is only one of several, and increasingly of lower priority, authorized uses of the acquired lands. The intent of Congress in passage of the Bankhead-Jones Farm Tenant Act of 1937 has not been achieved, because the Forest Service has not made a good faith effort to achieve it.

### Title II of the Livestock Grazing Act Will Achieve the Original Intent of Congress

The Bankhead-Jones Farm Tenant Act has not been repealed however. Meanwhile, the human occupancy and economic stability objectives of Forest Service land management have declined. For these reasons, in essence a fundamental and sometimes hostile mismatch between National Grassland social policy objectives and Forest Service land management objectives, the Association of National Grasslands, a cooperative assembly of the former LU grazing district boards from the Northern Great Plains States where the acquired lands are concentrated, has repeatedly requested a transfer of jurisdiction from the Forest Service to another federal agency, to a lower unit of governmental jurisdiction, or to private ownership.

Assuming the National Grasslands remain under federal administration, cooperative federal agency/grazing association management—a true working partnership—coupled with a project-oriented approach to land and water improvement projects, could result in significant cost-savings including reduction in direct agency management costs and overhead. Local district boards could once again assume responsibility for improvements and their maintenance; as well as for contracting with outside parties for archaeological surveys, pasture and habitat monitoring, threatened and endangered species protection, etc. The membership of these boards could be expanded to include representatives of other affected interests, as is being proposed on BLM grazing district lands in Title I of the Livestock Grazing Act. Grazing fees and conservation practices surcharges could continue to be administratively set by the Secretary of Agriculture.

It seems consistent with the underlying body of law, administrative procedures, cost efficiency in government operations, and user preferences to proceed now with the

transfer of jurisdiction authority from the Forest Service to the direct administration by the Secretary of Agriculture. The National Grasslands, after all, are acquired lands converted to perennial grass cover for sustainable grazing use: they are not National Forests. Given the continued resistance on the part of the Forest Service to administer the former LU grazing projects for the purposes for which the lands were originally acquired, or to treat them in the land use planning process as entities different from the reserved and acquired National Forests, an interagency transfer within USDA is entirely warranted.

Without hesitation, the Association of National Grasslands encourages your support for and passage of Titles I and II of the Livestock Grazing Act of 1995. Thank you for giving us, the users whose livelihood is dependent on the grazing use of these federal lands, this exceptional opportunity to have our voices heard.



Testimony

on behalf of the

**PUBLIC LANDS COUNCIL**

in regard to

**H.R. 1713**

**The Livestock Grazing Act**

submitted to

**House Resources Committee**

**Forests and Public Land Management Subcommittee**

submitted by

Truman Julian

President

Public Lands Council

July 11, 1995

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The Public Lands Council represents approximately 27,000 cattle and sheep permittees who hold leases and permits to graze livestock on 270 million acres of federal lands spread across 14 western states.

Mr. Chairman, thank you for this opportunity to address the committee. I am Truman Julian from Kemmerer, Wyoming. The Julian Land and Livestock Company is a family ranch consisting of my parents, wife and my three children. My grandfather immigrated to the United States in the 1800's, started herding sheep and eventually bought sheep and homesteaded in southwestern Wyoming. The Julian family has been ranching for over 100 years, involving four generations. It is my hope and desire to have at least four more generations of Julians involved in the ranching business. Unfortunately, Mr. Chairman, my hopes and desires for the future survival of a family tradition, western culture and existence of a viable livestock industry depend to a large degree upon the actions of this committee and eventually the entire Congress and Administration. It is unfortunate to be placed in a situation where one's livelihood and future decisions depend upon the actions of the Congress and Secretary Babbitt.

I am here today in my capacity as President of the Public Lands Council which represents the interests of tens of thousands of federal lands ranchers who utilize over 270 million acres of BLM and Forest Service land spread across 14 western states. The Public Lands Council coordinates the federal lands policy for the National Cattlemen's Association, the American Sheep Industry Association, and the Association of National Grasslands.

The National Cattlemen's Association (NCA) is the national spokesperson for all segments of the beef cattle industry, including cattle breeders, producers, and feeders. The NCA represents approximately 230,000 cattlemen and women in a membership that includes individual members as well as 46 affiliated state cattle associations and 29 breed associations.

The American Sheep Industry Association (ASI) is the national voice for the nearly 90,000 sheep producers in the United States. ASI is a federation of all 50 state lamb and wool grower associations.

The Association of National Grasslands represents 1,300 permittees across several western states who hold grazing permits on the national grasslands. Because of the unique nature of Title II of the bill, regarding the removal of grasslands from the national forest system, I am deferring comments to ANG President Keith Winter.

My comments today reflect the views and concerns of all these organizations.

Mr. Chairman, I am typical of the membership of the Public Lands Council. My family's income is derived solely from livestock, in my case sheep, and the products they produce. In addition, I use United States Forest Service and BLM lands for at least 60 percent of our operation. For those in Congress who think they do not have an impact on our lives, let me share a part of a letter that I received from our banker with whom we have done business for over 50 years. I quote:

This letter is in regard to our phone conversation on May 31, 1994. The Utah Production Credit Association requested on November 19, 1993, that you start considering different alternatives or options regarding your operation as we were concerned with the future viability of the sheep industry due to changes in the Wool Incentive Program and Range Reform. Again, Utah PCA is requesting you submit a letter outlining some alternatives or options you have considered. The reasons Utah PCA is requesting this letter is that we have concerns regarding the sheep industry, such as the Wool Incentive Reduction, Range Reform, predator problems and the volatility in the sheep markets. (The letter is attached.)

This letter sums up the woes of the federal lands livestock industry. That is why in Wyoming we have lost 255,000 head of sheep from January 1993 until January 1, 1995. This represents a loss of approximately 30 percent of the sheep numbers.

Mr. Chairman, I am typical in other ways of the federal lands rancher of today. I am not a rich person. We paid income taxes on approximately \$30,000 in 1994. We borrow money to pay the income tax. I am not going to bore you with reports, statistics and facts that hopefully you already have; however, I am besieged by government policy, rules and regulations. Chief among my concerns are the regulations promulgated by Secretary Babbitt, known as Rangeland Reform '94 on February 24, 1995. As you well know, Secretary Babbitt delayed implementation of those regulations so that Congress could decide whether it wished to involve itself in the policy decisions which these regulations represent. I am most appreciative of the willingness of this Congress to do just that -- in the form of the Livestock Grazing Act.

The sheep industry has had a rough ride in its partnership with the federal government the last five years. The sheep producers are fighting to stabilize the industry and stop the loss of inventory and the infrastructure producers rely on to grow and market our lamb and wool products. In addition to the loss of the National Wool Act in 1993, our industry has suffered:

- An 18 percent reduction in the U.S. sheep inventory.
- The loss of 10,000 farm and ranch families over a two year period.
- The loss of 500 sheep operations every month in 1994.
- The closure of two of the nation's lamb packing plants including the only lamb packing plants in Minnesota and Texas.
- Last month's announcement that Con Agra, our industry's largest packer, will close their lamb processing facility.

- A 50 percent increase in lamb imports into the United States.
- An 11 percent increase in wool and wool textile imports.

At this point in time, the sheep industry needs more than anything else, to stabilize and maintain our industry infrastructure. The sheep industry recognizes that the Livestock Grazing Act supplies a measure of stability and benefits not only the federal lands rancher. This bill effects the entire industry; lamb packing plants, wool warehouses, wool buying companies, sheep shearers and trucking companies that do business with the industry.

Furthermore, as seen in the U.S. Department of Agriculture testimony before Congress in May, unless stability is provided, loss of the sheep inventory will cause:

- a reduction in land values and tax base in production areas.
- an adverse affect on the viability of some rural communities.
- higher consumer prices for lamb and wool products.

With respect to the Livestock Grazing Act, the industry appreciates the authors' recognition of the physiological differences in sheep as compared to other livestock. Scientific evidence, as documented by USDA Agricultural Research Service, in combination with the evaluation of rangeland cover types in the areas of sheep grazing, clearly demonstrates that seven sheep to one cow more accurately reflects the Animal Unit Equivalent for sheep than the current 5:1 ratio. The ratio change of seven-to-one would ensure parity between the species for grazing assessment purposes only, and assist permittees to remain in the business. We, however, believe the bill's language needs to clarify that the seven-to-one animal unit equivalent is for billing purposes only and not for stocking rates.

Depending on factors such as vegetation type and topography, the ratio of sheep to cattle can be as high as fifty to one. Recent conversions of sheep to cattle permits in Wyoming have been at ratios of 17:1 and 24:1. West-wide, the USFS and BLM have seldom converted sheep permits at ratios of less than 7:1 because of vegetation and/or topography factors.

Livestock species have different grazing preferences. For example, cattle prefer a predominantly grass component to their diet, while sheep prefer more of a forb and shrub component in their diet. This vegetative preference is best seen in the distribution of sheep and cattle allotments today. Only seven percent of the

federal AUM grazed by sheep are found in states where the range is dominated by the grass component preferred for cattle grazing. On the other hand, 93 percent of the federal Animal Unit Months grazed by sheep are found on rangelands dominated by either a grass/shrub cover type or a grass/forb cover type.

In addition to topographical and vegetative differences that make many federal grazing allotments more suited for sheep, there are factors such as exclusions of riparian areas and lack of water or lack of fences that make herded sheep grazing more preferable, especially on BLM lands. These climatic, topographical, vegetative or managerial factors make it very likely that many allotments and leases will remain vacant after they are abandoned by the sheep industry.

In 1992, federal data showed that approximately 16 percent of the U.S. Forest Service sheep AUMs and 24 percent of the BLM sheep AUMs were not being utilized. The change in the billing ratio to seven sheep per Animal Unit Month will slow the rate of vacancy and the conversion of federal allotments.

Slowing the trend of conversions of federal allotments will mean not only an increase in revenues to the government due to high conversion rates, but will also ensure that an important and cost effective range management tool remains available to range managers. You are aware that the BLM has used sheep to biologically control leafy spurge in Montana. The Forest Service is using sheep to control knapweed and tansy ragwort in Oregon, and larkspur in Montana and Colorado. In Idaho and Oregon, the Forest Service is using sheep in wildlife habitat improvement projects and, in California, sheep are being used as a cost-effective means of maintaining critical fire breaks.

Should the domestic sheep industry continue its present decline, the Forest Service and BLM may find themselves in a situation similar to the Canadians. With over 65,000 head of sheep now involved in Canadian sheep ecology projects, low sheep inventories in Canada have forced Provincial Ministries of Forestry and Environmental Protection to pay contractors (up to \$40C per head) for their sheep in forestry, noxious weed, range improvement and brush control projects. These low inventories have also caused Canadian contractors to look south to the United States for additional supplies of sheep.

The cattle and sheep industry is continuing to make a detailed review of the Livestock Grazing Act and I will not attempt in this testimony to present a section by section analysis of the bill. We will be pleased, however, to submit to the Committee, at its convenience, a list of our primary concerns with the legislation. Before discussing a few of those, it is important to reiterate what is at stake here. If Rangeland Reform '94 becomes effective on August 21, 1995, a number of livestock operators will simply go out of business. The regulations as a whole

impose a significant burden on the backs of producers which will increase the non-productive agency red tape while decreasing income and profitability.

In addition, we have long called for the codification of a fair and equitable grazing fee formula. This is not to say that we are opposed to the current formula as set forth in Executive Order 12548. In fact, we think that formula has worked quite well to adequately reflect the comparative cost of doing business on federal versus private land and the market conditions affecting the livestock industry. We have been told by our friends in Congress, however, that the Public Rangelands Improvement Act formula has run its course. In any event, we strongly agree that it is important that a fee formula be codified so that we have certainty. Bankers such as mine become very nervous when they are unable to project from year to year what my federal grazing fees will be. Without codification of the formula, we cannot honestly tell the bankers that we ourselves know what our fees will be in the next year or the out years.

The fee formula presented in this legislation represents a fair return to the federal government for the value of the product taken from federal land by the industry -- the forage on federal land. The formula permits the government and industry to be partners in a productive business with the fee representing a 6% return on our gross income, before expenses, paid on a monthly basis for the use of federal forage. It is simple, easy to understand, explain, and administer, fair to the user and fair to the American public. As presented, it represents approximately a 30% increase in revenues from the grazing fees over 1994 revenues at a time when most ranches are suffering through a significant economic downturn in beef prices. Most ranches, mine included, fully expect to pay their fair share for the use of the federal forage. The fee proposed here does that. More importantly, we all need to put the fee issue to rest. It will also add stability to the western livestock industry, enabling ranchers to arrange financing meeting their needs and the requirements of their bankers. For these reasons, we are supportive of the concept.

We applaud the provisions in the bill which provide for increasing the permit tenure to 15 years, not only for the increased certainty and stability it will provide ranchers, but also for the tremendous savings in processing costs associated with permit issuance that will result. Range management is the art of long term strategies and commitment and the industry appreciates this step.

Mr. Chairman, the foregoing testimony is not to suggest that the bill is absolutely perfect. Indeed, there are many in the industry who have submitted detailed comments as to how they might improve the legislation. Some examples:

- It is very important that the Forest Service be brought under the same set of rules as the BLM. This will greatly streamline the system of federal lands management --to the benefit of users, the bureaucracy and the taxpayer. A

great many of the substantive provisions in this bill, particularly the fee, the tenure provisions, the NEPA compliance provisions in Section 106, and the advisory board provisions should be made to apply to the Secretary of Agriculture and then through him to the United States Forest Service. It is time to begin the process of consolidating the federal grazing management under one law and eliminate inconsistencies between the two agencies. This is the vehicle to do that.

- Clarify key definitions such as animal unit months and whether that is intended to apply to both the billing rate and the stocking rate.
- The section regarding the fee formula needs to be clarified regarding the reference to the National Agricultural Statistics Service and its subsequent use in addressing a surcharge for subleasing. Issues such as the appropriate amount of forage use is essential since livestock carrying capacity should be determined by measured trend studies over time and not based solely on utilization, stubble height or residual measurements. This may seem like arcane range science to some folks, but it is a critical decision when determining how many animals can be turned out on the federal land by a particular permittee for a particular amount of time.
- It is important that the provisions of civil violations also protect ranchers, their investments and their livestock on public lands from harassment, vandalism and death which is a disturbing and growing trend.
- We are facing some confusion over the provisions regarding suspension of a federal decision pending appeal.

Mr. Chairman, it is also important to note what this bill will not do. Professional environmentalists who seem to be more concerned about raising dues income and selling magazines, have already gone on the record decrying this legislation for various reasons which simply are not well founded. We are seeing the use of scare tactics in an attempt to generate a constituency in opposition to the legislation. We would be happy to sit down with these environmentalists and you and your staff to look at the issues they raise and to make a reasoned inquiry into whether, in fact, the purported environmental degradation would in fact flow from this legislation.

Ranchers proudly consider themselves environmentalists as we must care for the environment day in and day out if we are to return to it for our livelihoods. I'm convinced that these scare tactics are nothing more than that. It has been my experience that when we have an opportunity to sit across the table from local environmentalists in the western United States that they are much more willing to reasonably discuss the issues and work towards a fair and equitable resolution for

everyone. We want the public, ourselves included, to have a meaningful bite at the apple when it comes to planning and implementing the management of the nation's land. That opportunity should be at the plan level, however, and not on individual grazing operating plans or even, on individual grazing bills, as is now the case.

To that end, we strongly support the concept underlying the process set forth in Section 106 of the act whereby livestock grazing activities and management actions are not to require any special consideration under the National Environmental Policy Act. The livestock industry strongly supports the development at the local administrative unit of Resource Management Plans, (RMPs) or Forest Land and Management Plans, with full public participation as provided for in NEPA, as well as appropriate and timely consultation with other federal agencies. We believe that these plans need to be given new vitality. They are the mechanism whereby decisions regarding a "major federal action significantly affecting the human environment" ought to be, and can be made. They can and do now contain many specific and precise guidelines and standards that govern grazing and a multitude of other uses for the federal lands in a given area. The provisions of NEPA can and do have an important role to play in that process. However, a great deal of the time, energy, and controversy surrounding the daily management of the federal lands could be eliminated by the process outlined in Section 106. If it's in the plans, and clearly not prohibited by them, the authorized officer can proceed. We want the public, ourselves included, to have a meaningful bite at the apple when it comes to planning and implementing the management of the nation's land. That opportunity should be at the plan level, however, and not on individual grazing operating plans or even, on individual grazing bills, as is now the case.

I have two specific changes in this area to call to your attention.

First, on page 20, line 10 of the bill, please insert the word "minimum" after the word "related". In developing a land use plan, we owe it to the nation to say very clearly what the allowable resource uses are. We also owe it to those communities dependent upon their surrounding federal lands and the resources associated with those lands to set forth, up front, what the minimum levels of production or use that will be maintained.

Secondly, if this legislation is amended to include the Forest Service, and I certainly hope it is, then consideration needs to be given to the effective date of the legislation, particularly Section 106. As you well know, a great many grazing permits in the West expire on December 31, 1995. It is not that helpful to state that grazing should be administered under the law existing on May 18, 1995, for it is under that law that the Administration is now acting. This bill, assuming it is signed into law, would greatly serve those ranchers and those whom must bear the brunt of processing all those permits up for renewal if its effective date was prior to December 31, 1995. I see no reason why the effective date for purposes of the grazing fee might remain March 1, 1996.



We will support the provisions covering water rights in the bill. Just as Secretary Babbitt felt strongly that only the United States should hold title to the water for livestock grazing on federal lands, you should know there are interests that feel that the United States should be expressly prohibited from acquiring a water right for livestock grazing purposes as they are not the beneficial holders of any livestock. The more reasoned course is that outlined very simply and elegantly in Section 123. Consistent with the long-standing policy of the Congress of deferring to the water laws of the various sovereign states, leave those decisions, including the questions regarding title to a specific water right, for a specific purpose to state law.

A great deal of discussion has evolved over the past three years on the question of advisory boards. We support the establishment in both the BLM and the Forest Service of Resource Advisory Councils at the level of the local administrative unit with the principal focus on an individual's knowledge and experience of the local area and a commitment to consensus. National standards for grazing should be replaced by regional and local standards, developed with assistance from the advisory boards as constituted in the bill.

Ranchers have accepted that there will be change and we are trying to formulate equitable change -- it is time for environmentalists to do the same instead of trashing all the options offered.

Finally, Mr. Chairman, allow me to reiterate the importance of what you are doing. Your decisions on this legislation will directly impact the ability of my family and other members of the Public Lands Council to stay in business to produce food and fiber for this nation and the world. We do not want a handout from the government. Basically, we just want an opportunity to make a satisfactory living for ourselves and our family and the opportunity to continue producing and improving the quality and quantity of livestock products -- wool, lamb and beef that we provide to the American consumer. I do not want to become another Wyoming operator who has sold out under the weight of federal regulation. Parents are discouraging sons and daughters from coming back to ranches because of the instability of the livestock industry. In my own circumstance, I have a son and daughter that want to come back to the ranch full-time but I have withstood their desires and insisted they keep their teaching jobs until I know if our ranch is to survive. Your decisions will determine our fate. Thank you.



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as of 8/27/95

### The Livestock Grazing Act A Compendium of Comments<sup>1</sup> Prepared by the Public Lands Council

All references are to the Senate bill, S.852, as introduced.

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

#### SECTION 2. EFFECTIVE DATE.

Page 3, line 8: Change effective date of "May 18, 1995" to "December 31, 1994". We agree with Nevada Farm Bureau, this date should be moved back to December. By doing this, it will pre-date the Range Reform rules and regulations published earlier in the Federal Register. *Oregon Farm Bureau*

### TITLE I—MANAGEMENT OF GRAZING ON FEDERAL LAND

#### Subtitle A—General Provisions

#### SEC. 101. Findings

Addition of a new (4) and concurrent renumbering of the old (4) and (5). To serve as a logical precursor for much of the discussion regarding grazing preferences later in the bill. The new finding (4) would read as follows: that grazing preference rights, as delineated, recognized, and acknowledged in federal court decisions, in the Taylor Grazing Act (43 U.S.C.A. 315), in the related House of Representatives and Senate committee hearing records, and in rules and regulations subsequently promulgated must continue to be adequately safeguarded in order to promote the economic stability of the western livestock industry; Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)

It is recommended that the following be added to (10) or a new (11): Sustainable use of Federal rangelands is a goal desired by all. However, grazing or any other land use is not sustainable if it is not economically feasible to continue that use. A very low livestock stocking rate may have little effect on the resource (forage production), site productivity or competing uses of the land, but may not be economically feasible. Proper livestock grazing is both ecologically and economically sustainable on the vast majority of Federal rangelands". W.A. Laycock

<sup>1</sup> This document compiles comments received from the sources as indicated. No effort has been made to reconcile multiple or contradictory recommendations. PLC does not offer an opinion in this document on the merits of any listed comments  
National Cattlemen's Association • American Sheep Industry Association • Association of National Grasslands

Page 7, line 7 Insert “(C) Section 402 of the Federal Land Policy and management Act of 1976 is hereby repealed”. *Wyoming Wool Growers Association (WWGA)*

#### SEC. 102. APPLICATION OF ACT.

We would suggest that if the US Forest Service is to be included in this act, it be done as soon as possible. *Oregon Farm Bureau, Budd-Falen, W.A. Laycock, Nevada Cattlemen's Association*

Page 7, line 9--With respect to its effect on the other laws cited, one can assume that unless the language of the LGA specifically overrides the provision of the law or there is a provision repealing the other law, the previous law remains in force. *Lewis Cipher*

#### SEC. 103. OBJECTIVE

(4)-(5)--Page 8, lines 14-18 It is not clear how the LGA performs an inventory of public land, or considers wildlife. *Lewis Cipher*

(4)--Page 8, line 15 Insert “proven scientific monitoring” after the second “of”. *WWGA*

#### SEC. 104. DEFINITIONS

(2) Please clarify “the places at which” *Fred Obermiller*  
Strike “the places at which...” *New Mexico PLC*

(4) Affected Interest--An appropriate definition will streamline the remainder of the bill and the need for more substantive changes therein. It is suggested that “Affected Interest” be redefined as follows: The term “affected interest” means an individual or organization whose role is advisory only and not signatory of range agreements or AMPs. *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(4) Affected Interest--Page 9, line 17, Between the words “will” and “affect”, insert the word “economically”. *Oregon Farm Bureau, W.A. Laycock*

(4) Affected Interest--Page 9, line 12 Delete “or organization”. *WWGA*

(4) Affected Interest (A)--Page 9, line 15 Delete “on a specific grazing allotment” and insert “during the land use planning process”, on line 17, insert “directly” after “will” and, on line 18, delete “or organization”. *WWGA*

(4) Affected interest--Page 9 The legislation should specifically include local government as an affected interest to ensure that local customs, culture, and economics are considered. The current definition gives the authorized officer far too much discretion in determining who is an affected interest. This definition should be more restrictive. *California Cattlemen's Association (CCA)*

(4) (B)--Page 9, line 19 Insert "(B) further, for an individual to qualify as an affected interest, that individual shall meet the qualifications of having legal standing. The general public's privilege to participate in the Land Use Planning process is recognized, and shall not be diminished by this definition, and". Delete (B) and insert (C). *WWGA*

(4) (B)--Strike this section. *Nevada Cattlemen's Association*

(6) Allotment Management Plan (B)--Replace with: "is prepared in consultation, cooperation and coordination with leasees, permittees, landowners involved, grazing advisory councils and any States having lands within the area to be covered by such plans." *New Mexico PLC*

(6) Allotment Management Plan--Pages 9-10 The definition is completely ambiguous. The language needs work to make it clear as the definition of AMP. It is suggested that the current statutory definitions in FLPMA and PRIA be used in order to maintain continuity between current and new AMPs. *Chad Gibson*

(6) Allotment Management Plan--Pages 9-10 Replace term and definition with the term "Management Agreement" which is defined as "a document that details items of agreement between the permittee and the Agency on issues related to the livestock management of the allotment. This document shall be considered a contract between those who sign the Agreement, the Agreement to be adjudicated under the respective State laws of residence of the permittee(s)." Add a Rule of Construction following the above definition which states: "Management Agreements that document the items of consensus between the permittee and Agency with respect to the livestock management in an allotment shall be constructed for each allotment on Section 3 lands. These Agreements shall be considered contracts between the parties of signature and will be adjudicated under the respective State laws of residence of the permittee(s)." *WWGA*

(7) Animal Unit Month--Leaves a sword over the sheep industry's head by making "animal unit months" a term subject to State definition. This seems to be most unwise, since a state could eliminate sheep grazing any time they wished, simply by making the ratio two to one, for example. It seems best to take the state definition idea out. It is not needed, and is risky. *Lewis Copher*

(7) Animal Unit Month (B) No state Definition (i) In General (I)--Clarify and make consistent with range science definitions the AUM by type of livestock ratio (excluding the 7:1 sheep:cow ratio). Move this definition to the subsection dealing with grazing fees (Section 137). *Fred Obermiller*

(7) Animal Unit Month (AUM): The bill should specify that 1 AUM equals 1 cow and its calf for stocking-rates and billing purposes. *Larry Nelson*

(7) This would be scientifically unsound. An AUM for stocking purposes reflects the amount of forage an animal consumes. One AUM equals a 1000 pound animal, as an animal's weight exceeds 1000 pounds its forage intake increases. A 1400 pound cow would have a stocking rate of 1.25 to 1.3. If the stocking rate is not properly adjusted there is a very real concern for overgrazing areas. *Dick Loper*

(7) Animal Unit Month (B) (i) (I)--Strike everything through mule. Replace with "1 cow, bull, horse, burro or mule, .7 steer, heifer..." *New Mexico PLC*

(7) Animal Unit Month--Page 11, lines 3-6, Is there a problem with classifying a weaned steer as a full AUM? We have had no one indicate that they are concerned with this issue. *Oregon Farm Bureau*.

(7) AUM--The entire section on AUM equivalents should be dropped or placed in the fee section and designated for billing purposes only. It is recommended that the definition now in the regulations be used "Animal Unit Month (AUM) means the amount of forage necessary for the sustenance of one cow or its equivalent for a period of 1 month" and that equivalents which do not have scientific agreement and have major implications for purposes other than billing be left out of the statute. *Chad Gibson*

(7) Animal Unit Month (B) (i) (III)--Page 11, line 7-10 The drafters of this bill apparently did not realize that BLM has some year-round operators. The livestock never leave the public land until they are shipped to market. Section (III) needs to be clarified to make it obvious that the grazing year or period of use is in view here, and not the term of 15 years of the permit. This comment also applies to subsection (ii) (II), page 11, line 24. *Lewis Cipher*

(9) Bas Property--Page 12, line 17 Add the following new subsection (C) "Land or water that wholly or partially derives its economic value from the use of the associated grazing permit or lease." *Scott Bedke*

(12) Consultation, cooperation, and coordination--Add after the period "Whereby all parties are equal, none being subservient to the other." *New Mexico PLC*

(12) Consultation, cooperation and coordination--Page 13, This definition uses the current FLPMA definition for consultation, cooperation and coordination in 1752 (d). In Sec. 104 (b), page 18, this wording amends the above listed definition to include any "good faith effort to reach consensus on issues". The ambiguity of "good faith" renders the CCC process mute and unworkable. This amendment would essentially eliminate the protections of private property rights and interests in those situations where private lands are unfenced and intermingled with public lands. *Chad Gibson*

Desired Plant Community (DPC)--Add the definition as follows: The plant community, of the several plant communities that may occupy a site, that has been identified through a management plan to best meet the plan's objective for the site. *W.A. Laycock*

(14) Federal Land--This new definition is important in large part because of the intermingled and checkerboard nature of federal-state-private land ownership in parts of the West and the impossibility of controlling livestock movement and access among unfenced ownerships. "Federal Land" should be redefined as follows: (A) means land outside the State of Alaska... *FRED OBERMILLER, Bob Sears (Idaho, Oregon, Nevada)*

(14) Federal Land--Page 13, line 16 Change the word "owned" to "administered". Until the Nye County case is settled, federal ownership should not be admitted. *CCA*

(14) Federal Land (A)--Page 13, line 15 Delete "or an interest in land". This change is an absolute must, in our opinion. If the language remains unchanged, we believe that the federal land management agencies will be able to exert control over grazing on land where the surface ownership is in private hands but the federal government owns the mineral estate. Much of the state of Wyoming is held in exactly this situation. We see this problem arising particularly in Section 15 and checkerboard areas where the BLM has tried for years to force lessees into AMP's. With the wording as is in the LGA, in areas where there are split estates, they would have the statutory authority to do so. *WWGA*

(14) Federal Land (B)--Page 13, lines 20-21 It would be better to say "held in trust for Indians" to make clear that if an Indian happens to be an allottee that does not remove the allotment from the operation of the LGA. *Lewis Cipher*

(14) Federal Land--Should Forest Service land be included? *W.A. Laycock*

(15) Grazing District--Is defined in a classic way, but apparently the bill loses sight of the fact that a lot of land in BLM administrative districts are not part of any of the old grazing districts. For example, Sec. 176 (c) (2) limits advice to lands within a grazing district and leaves unanswered the question of what or who will give advice on the other land. *Lewis Cipher*

(19) Grazing Preference--After the word "land" insert, "as adjudicated and attached to the original permits apportioned..." *New Mexico PLC*

(19) Grazing Preference--Page 14 Retain the definition of grazing preference found in the Taylor Grazing Act. *CCA*

Guidelines (Policy Guidelines)--Add the definition as follows: General policy statement which guides the administration of grazing on Federal Lands. Policy guidelines are appropriate in any document dealing with grazing above the AMP level. Specifications in an AMP should be considered Standards (Technical Standards)--see that definition. *W.A. Laycock*

(21) Land use plan--Page 15, Lines 6, After the semi-colon and before "or" insert "that is consistent with state and local land use plans". "Land use plan", when used in this act, is also used to refer to state or local land use plans and not just those developed by the federal government for the lands they manage (note page 6, line 13). *Oregon Farm Bureau*

Livestock--should be supplemented with a sentence, perhaps part (C) that says that wild, free-roaming horses and burros are not livestock under the meaning of this act. Failure to do so will almost surely generate opposition from wild horse groups. It makes the definition more correct, as a side benefit.

(23) Livestock Carrying Capacity--Page 15, line 22 After "resources" insert "as determined by monitoring." *WWGA*

(24) Monitoring--Add "rangeland study" between "means" and "monitoring". *Fred Obermiller*

(24) Monitoring--Page 15, line 25, add "over time" after the word "data" and after the word "evaluate" add "trend and to determine the ..." We feel that most, if not all, monitoring processes should be geared to determine trends toward or away from some objective. The Nevada Farm Bureau made an effort to do this in their input, but we believe that the wording they suggested ought to be included after the word "data" rather than before. *Oregon Farm Bureau*

(24) Monitoring (A) Add "ecological changes and" between "of" and "management". *Fred Obermiller*

Add the following definitions here: *W. A. Laycock*

Standard (Technical Standard)--Specifications in the Allotment Management Plan (AMP) that spell out what the specific requirements are for that allotment. Technical Standards are not appropriate in any document above the AMP level. Statements in these documents are considered to be "Policy Guidelines" (see definition).

Stubble Height (or Residue)--the height or amount of herbage remaining on the ground after grazing. When appropriate local standards have been developed, stubble height or residue may be used in lieu of Utilization.

(29) Sublease--Don't you need to separate out the different concepts of subleasing and management contracts? They are different and need to be treated differently on p. 55. *W. A. Laycock*

(32) Trend--Add the following to the definition: Must be determined by actual measurements or monitoring taken over time and not from one time checklists, "instant" trend, or rapid assessment techniques. *W.A. Laycock*

(34) Utilization is defined as the year's herbage production consumed or destroyed by herbivores.

(34) Utilization--Page 18, lines 12-14, It is recommended that after the word "herbivores" the following sentence be added, "Destroyed herbage does not relate to herbage that is still growing, but physically impacted by the herbivore, or the previous growing season's litter and standing dead plant material." In some instances, range technicians have a tendency to assume that forage that has been laid upon or bent over by herbivores should be classified as "destroyed". This is not the case if the material is still rooted and growing. The whole issue may be academic and seem

too obvious, but when the ability to continue to use an allotment is dependent on a utilization rate of 35-40%, proper identification of destroyed vegetation could become critical. Previous years litter and standing dead can also be mistakenly classified as destroyed vegetation. We feel that the definition of "utilization" in this act should clarify what "destroyed vegetation" is. *Oregon Farm Bureau*

(33) Utilization--Change the definition to read: "...means the proportion or percentage of the total year's herbage production..." *W.A. Laycock*

(33) Utilization--Page 18, line 13 After "of a" insert "total". *WWGA*

(26) Rangeland study--Page 16, Line 22, between "use" and "utilization" insert "production and trend."

Page 17, Line 3, place a period after "land" and strike the rest of the sentence. *New Mexico PLC*

(28) Service area--Strike "properly" *New Mexico PLC, WWGA*

(31) Supplemental feed--Place a period after "nutrition" and delete the rest of the sentence. *New Mexico PLC*

(35) This section is okay if the "affected interest" definition is changed as previously stated. *Fred Obermiller*

#### **New Definitions-Oregon Farm Bureau**

Guidelines--The term "guidelines" means general parameters for processes and quality control to help attain management goals.

Standards--Definitive and quantifiable parameters established as a model or example for the measure of quantity, value or quality of an action used in attaining objectives.

We feel that specific definitions of "standards" and "guidelines" are absolutely necessary to avoid the lumping of the two terms together. These two terms are not the same. Standards are more specific and should be used on the ground and in site-specific situations. Guidelines are more general policy items and are not as specified as standards. Guidelines should be flexible. Neither "standards" nor "guidelines" should be mistaken for "objectives" or "goals". They provide parameters and direction in achieving management goals and objectives.

Section 104 (b) (2) Page 19, line 4--Strike "good faith" and (line 5) strike "from" and add "where all parties are equal and none being subservient to the others".

Line 7--Strike "affected interests" and insert "landowners".

Line 10--Strike "resource" and insert "grazing".

Line 14--Strike (4) in its entirety. *New Mexico PLC*

(b) Consultation, Cooperation, and Coordination--Page 18, line 21 Delete 402 (d) of the Federal Land Policy and insert "8 of PRLA"

Line 22, delete "Management Act of 1976 (43 U.S.C. 1752 (d))"

Line 23, after "amended" insert "to include the following definition:". *WWGA*



(b) (1) Delete lines 24-25.

(b) (2) Page 19, line 1, delete and, line 2, delete "used in this subsection", delete "the" and insert "The" and delete page 19, lines 14-15. *WWGA*

## SEC. 105. FUNDAMENTALS OF RANGELAND HEALTH

Page 19, line 16 Insert "Condition or" between "Rangeland" and "Health". *W. A. Laycock*

(a) Standards and Guidelines--As indicated in the definitions, the terms "Standards" and "Guidelines" should not be used together because they are concepts that apply at different levels. As indicated in the PLC review of the DEIS (p. 62): "Ecologically sound and feasible management requires separation of the two terms. 'Standards' are appropriate at the local level as part of an AMP. However, they must be established locally to fit the situation on each range site within the allotment. All directions above the AMP level should be called 'Guidelines'. They should be general in nature..." For clarification, the terms "Technical Standards" and "Policy Guidelines" are probably clearer than just "Standards" and "Guidelines". *W.A. Laycock*

(a) Standards and Guidelines--This subsection maybe is not needed, but if needed the standards and guidelines, and management objectives should be defined as the lowest possible level of geographic aggregation to promote site specific adaptive management. Preferably, the title of the subsection, "(a) Standards and Guidelines" would be changed to read "(a) Management Goals". For the purpose of consistency, the language on lines 15-20 could read: "The Secretary (or authorized officer) shall establish standards and guidelines, through the land use planning process at the Resource Management Plan level, and management objectives at the District, Resource Area, and allotment or equivalent site specific level in conjunction with the State Department of Agriculture or other appropriate agency and the land-grant university or other appropriate institution of higher education of each interested state, consistent with the provisions section 309 (d) and (e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739)." *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(a) Standards and Guidelines--Page 19 Additional sideboards must be placed on the Secretary's ability to establish standards and guidelines. We suggest that the legislation should require that standards and guidelines be developed in careful and considered consultation, cooperation and coordination with permittees. *CCA*

(a) Standards and Guidelines (1) Guidelines--The Secretary shall establish guidelines with flexible parameters to attain planned ecologically and economically feasible land-use goals on a state or regional level in conjunction with the State Department of Agriculture or other appropriate agency and the land-grant university or other appropriate institution of higher education of each interested state." *Oregon Farm Bureau*

(a) Standards and Guidelines (2) Standards--The Secretary's authorized officer will establish standards to attain site-specific ecologically and economically feasible management objectives, in

consultation, cooperation and coordination with the State Department of Agriculture or other appropriate agency, the land-grant university or other appropriate institution of higher education of each interested state and other affected interests.” *Oregon Farm Bureau*

- (a) Line 18--Between the words “or” and “regional” insert “intrastate”.  
Line 20--After “agriculture” insert “county governments”. *New Mexico PLC*

(a) Standards and Guidelines--Page 19, lines 17 and 18 Delete “standards” and replace with “policy”. Page 19, line 18, delete “shall” and insert “may”. *WWGA*

(b) Rule of Construction--Page 19, line 25 After “necessary” insert “to accomplish the purposes of this Act.” *WWGA*

(b) Rule of Construction--Page 19, line 25, after “necessary” add “or appropriate”. *Oregon Farm Bureau*

## SEC. 106 LAND USE PLANS.

The NEPA exemption will give little practical help in the case of specific projects. ESA and Archeological Preservation Act will continue to hold up site specific projects (range improvements). NEPA exemption, alone, does not speed up range improvements very much. It is important to keep the concept that the issuance of annual bills and the issuance of the permits and leases, when in compliance with the land-use plan, do not require further NEPA assessment. *Lewis Cipher*

(b) Contents of Land Use Plan (2)--Page 20, line 14, Replace “needed” with the word “proposed”. *Oregon Farm Bureau*

(c) Application of NEPA--This should read as follows: A land use plan shall be developed at the Resource Area Level in conformance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and with the requirements of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.). *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(d) Conformance With Land Use Plan (1)--Page 20, line 24 Add a Rule of Construction after line 24: “Secretaries are required to insure that agency Land Use Plans are consistent with state, county, local and tribal land planning efforts. Agency Land Use Plans shall be developed in full and considered consultation, cooperation and coordination with state, county, local and tribal governments and their authorized representatives.” *WWGA*

## SEC. 107 RULE OF CONSTRUCTION.

If possible the bill should include some guarantee that permitted numbers will remain at historic levels. The Multiple Use Sustained Yield Act is being violated and nothing can be done to correct the problem. *Bill DeVeney*

## Subtitle B—Qualification and Grazing Preferences

### SEC. 111. MANDATORY QUALIFICATIONS.

(1)--Page 21, line 13 This might make it hard to get started in the livestock business. *Lewis Cipher*

(1)--Page 21, line 13 After "be engaged in the livestock business" add "and uses or has the intent to use the Federal rangeland as a part of that livestock business". *W.A. Laycock*

### SEC. 112. ACQUIRED LAND.

### SEC. 113. GRAZING PREFERENCES.

(a) Base Property--Page 22, line 12 et seq. The base property as described here would allow base waters to be established in any State, and not only in areas which are presently water-base. *Lewis Cipher*

(a) Base Property (2) Specification of Length of Time--Page 23, line 1 The existing statement destroys the relationship between the administration of grazing districts, prior preference adjudications, and seasons of use. It is suggested that the following language be used: Based on historical grazing preference rights, an authorized officer shall specify the length of time for which land base property shall be considered to be capable of supporting authorized livestock use during the year. *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(a) (4) Loss of ownership or control (A)--Page 23, line 16 Delete the following "terminate immediately, without notice from the authorized officer." Replace with "remain in force with the temporary holder or controller of the base property until a final disposition is reached." *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(a) (4) Loss of Ownership or Control--Page 23, line This section is too vague. Preference should not be removed from the base property. *CCA*

(b) (2) Attachment of Grazing Preference--Page 25, line 9 Delete "attach" and insert "be attached". *CCA*

(b) (3) Attachment of Animal Unit Months--Page 25 Delete this section entirely. *CCA*

(c) Transfer of Grazing Preference (4)--Page 26, line 15 Between "as" and "the" insert "developed through consultation, cooperation, and consultation. *New Mexico PLC*

#### SEC. 114. CHANGES IN GRAZING PREFERENCE STATUS.

Somewhere in this section probably is the appropriate place to reemphasize the current rules and regulations on complete non use. *W.A. Laycock*

(a) In General--Page 29, lines 13, 15, and (b) line 16 Delete "stocking rate" and insert "grazing preference". *WWGA*

(a) and (b)--To be consistent, "Stocking Rate" should replace "Grazing Preference" in the title. Then, wherever used, consideration should be given to changing the term "stocking rate" to the term "carrying capacity". *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(b)--Page 29, line 18, place a period after time, delete the rest of the paragraph. *New Mexico PLC*

(b) Support--Page 29, lines 19-20 After "plan" through the end of line 20 insert "and is consistent with state, county, local and Indian planning objectives." *WWGA*

(b) Support--Page 29, line 20, Amend this section by adding the following sentence at the end of the paragraph: Utilization levels shall not be the sole basis for a decision to limit livestock grazing. *Budd-Falen*

(b) Support--Page 29, line 18 End the sentence at "over time" and add "Utilization levels shall not be the sole basis for a decision to limit livestock grazing." *Nevada Cattlemen's Association*

(c) Increase in Active Use--As a matter of reality, experience has shown that even when additional forage does become available, it is not apportioned to qualified grazing applicants. To provide a solution, the following language could be used: (1) In General--As a customary practice, any additional forage that becomes available will be apportioned to a qualified.... *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(d) Page 31, Line 21 & 22--Strike "affected interests" and insert "landowners". *New Mexico PLC*

(d) (2) Permanent Suspension--Page 32, line 2 Strike "unacceptable" and insert "excessive" and (line 7) between "use" and "if" add "to the long term carrying capacity". *New Mexico PLC*

(d) (2) Permanent Suspension--Page 32, line 2 Delete "an unacceptable" and insert "resource damage" and line 3, delete "level or pattern of utilization". *WWGA*

(d) (2) Permanent Suspension--Page 32, lines 1-5. It is suggested that the following changes be made: "When monitoring over time indicates that active use by livestock is causing an unacceptable and detrimental level or pattern of utilization or exceeds the livestock carrying capacity, an authorized officer, after..." A decision to suspend use should be made from data gathered in a manner that would indicate that present management is responsible for any trend away from the desired management goal and that the trend is, in fact, due to the livestock use. *Oregon Farm Bureau*

(d) (2) Permanent Suspension--Page 32, line 1 Add the following language so this reads: "When trend determined by monitoring over time shows that active use is..." Line 4, delete "as determined through monitoring". At the end of (2) add: "Reductions in active use shall not be made based solely on levels of utilization stubble height or residue studies. Such utilization studies must be correlated with and backed by actual measured trend studies to determine that there is a problem." *W.A. Laycock*

(d) (2) Permanent Suspension--Page 32, lines 2-3 Delete "an unacceptable level or pattern of utilization" and insert "resource damage". *WWGA*

(e) (1) Phasing-in--Line 22 & 23, strike "interests" and insert "landowners". *New Mexico PLC*

(e) (2) (B) (page 33, line 7)--Replace the term "range analysis" with the term "range study and monitoring" and then, for consistency, reverse the order of (B) and (C). *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(e) (2) (B)--Page 33, line 7, After the word "range" add the word "trend". The only acceptable data to make decisions to decrease preference is data that indicates a trend away from some resource objective or land use goal. *Oregon Farm Bureau*

(e) Implementation of Changes in Available Forage--Page 32, the language allows an "affected interest" to become a party to "consultation" in how a reduction in active use will be implemented. This allows for 3rd party interference in a decision that will or could have economic impacts on contractual obligations of an individual. *Chad Gibson*

(e) Implementation of Changes in Available Forage (1) Phasing-In--Page 32, lines 19-24 The phase-in is likely to be too little, too late, in emergency cases. Language to eliminate the phase-in in cases of emergency would be helpful. Its absence will cause a black eye to the industry, since the few bad operators will not be controllable. *Lewis Cipher*

(e) Implementation of Changes in Available Forage (2) Suspension of Grazing Preference (c)--Page 33, line After "If" add "adequate and acceptable measure trend data..." *W.A. Laycock*

**SEC. 115. CHANGES IN FEDERAL LAND ACREAGE.**

(b) Decrease in Land Acreage (1) In General--Page 34, line 15 After "within an allotment" insert the words "for adequate and justified reasons". *W.A. Laycock*

(b) Decrease in Land Acreage (3) (C)--Page 36, line 1 Strike "but in excess of" and, line 4, after "land" add "and reduction in value of base property". *New Mexico PLC*

(b) (3) (C)--Page 36, line 3 Following the word "improvements" add the following language: "and the capitalized value of the grazing permit." *Nevada Cattlemen's Association*

**Subtitle C--Grazing Management****SEC. 121. ALLOTMENT MANAGEMENT PLANS.**

Page 36, line 6 Delete "Allotment Management Plan" and insert "Management Agreement".

(a) In General--Page 36, line 7 Delete "Allotment Management Plan" and insert "Management Agreement".

Page 36, line 8 Delete "shall" and insert "may".

Page 36, line 12 Delete "Allotment Management Plan" and insert "Management Agreement". *WWGA*

(b) Contents--Page 36, line 13 Delete "Allotment Management Plan" and insert "Management Agreement". *WWGA*

(b) (2) Strike "prescribe" and insert "describe". *New Mexico PLC*

(b) Contents (2)--Page 36, line 17 Insert items (2) and (3) as follows:

(2)--Every range site on the allotment should have the Desired Plant Community (DPC) described for it.

(3)--Actions needed to move toward the DPC must be stated, including:

(a) The livestock grazing practices necessary to cause the community to move toward the DPC and to meet specific multiple-use management objectives:

(b) Any needed range management actions or improvements:

- (1) fencing
- (2) brush or weed control
- (3) water development
- (4) salting
- (5) riding or herding
- (6) others

and renumber original items (2), (3) and (4) to be (4), (5) and (6). At the end of the new (6)(page 36, line 25) add "including trend toward (or away from) the defined DPCs.

(c) Private and State Land--Page 37, lines 1-2 Insert the word "only" between "plan" and "with". Some mention of the true carrying capacity of these lands needs to be included here. *W.A.*

*Laycock*

(b) (4)--Page 36, line 25 Delete "plan" and insert "agreement". *WWGA*

(c) Private and State Land--Page 37, line 2 Delete "shall" and insert "may", delete "Allotment Management Plan" and insert "Management Agreement" and insert "only" after "Management Agreement".

(c) Private and State Land--Page 37, line 3 After "with the" insert "written".

(c) Private and State Land--Page 37, line 4 After "the land" insert "If unfenced, intermingled private or state lands are not included in the Management Agreement, the agency shall assume full responsibility to preclude any federal impacts on private or state lands in the management area."

*WWGA*

(d) Line 6--Strike "shall" and insert "may". *New Mexico PLC*

(d) Incorporation in Grazing Permits and Grazing Leases--Page 37, lines 5-8 Delete item (d).

*WWGA*

(e) Line 11--Strike "that is consistent with a land use plan". *New Mexico PLC, WWGA*

(e)--Page 37, lines 15-16, it is recommended that the following paragraph be inserted between lines 15 and 16: "Notwithstanding any other provision of law to the contrary, existing grazing permits or grazing leases shall continue and shall be renewed, on the same terms while any land use plan is being prepared here under or while any study or assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other law is being conducted." This addition would avoid future problems where permittees are not allowed to use their allotments because the agencies have failed to complete studies that are required such as the current NEPA mess or the endangered salmon situation in the Wallowa-Whitman Forest in Eastern Oregon. *Oregon Farm Bureau*

Insert 2 new sections following Section 121

#### Monitoring

(a) In General--Any monitoring of allotment territory can only be performed by qualified BLM or Forest Service personnel, qualified agents of the BLM or Forest Service, or permittees at the request of BLM or Forest Service personnel.

(b) Requirement of Requesting Permittee Participation in Allotment Monitoring--No inspection or monitoring documentation shall be used or placed in the permittee's allotment file unless the permittee has been requested and allowed to participate in the allotment inspection with qualified BLM or Forest Service personnel or qualified agents of the BLM or Forest Service.

#### Non-Interference with Grazing Contracts

(a) In General--Grazing permits shall be granted the same protection as all other contracts or leases issued by Forest Service or BLM, including protection from interference by third parties. Oregon Cow-Cop

Insert new subsections 122 and 123, and renumber all original subsections accordingly. The subsections designed to negate third party interference have been prepared by qualified legal counsel, could be added following line 16, page 37. Third party interference in monitoring and livestock management is an increasing problem in the Pacific Northwest and can be expected to spread, with equally disruptive effects, to other parts of the West. It is important that some language be added to the LGA which will discourage frivolous and capricious interference with livestock and range management, and will ensure that only qualified personnel monitor grazing allotments. One way to do this would be to add the following language:

Section 122 Monitoring

(a) In General--Any monitoring or inspection or allotment territory for condition or compliance with grazing rules and regulations and the terms and conditions of grazing permits and allotment management plans, shall be performed only by the permittee, qualified personnel, qualified consultants retained by the United States, or qualified consultants retained by the grazing permittee or grazing lessee. An individual is qualified within the meaning of this section if he or she possesses the training, educational credentials and experience ordinarily possessed by professionals in the scientific or technical field being assessed.

(b) Requirement of Requesting Permittee or Lessee Participation in Allotment Monitoring--No inspection or monitoring documentation, data, information, or reports shall be relied on, used, or included in the permittee's or lessee's allotment file in any form unless the permittee has been invited and allowed to be present at and to participate in the inspection or other activity in which the information or data was gathered or which resulted in the report. No invitation to the permittee's or lessee's presence shall be valid for the purposes of this section unless the qualified personnel carrying out the inspection or monitoring activity made reasonable accommodations to the permittee's or lessee's schedule and circumstances allow the permittee to be present.

Section 123 Non-Interference with Grazing Activities

(a) In General--This section is declarative of existing law.

(b) The Secretary shall insure that grazing activities being carried out on or in connection with federal land administered by the Secretary or protected against interference by third parties and are given the same protection as all contracts or leases issued by the Secretary. Fred Obermiller

**SEC. 122. RANGE IMPROVEMENTS.**

8100 funds for range improvements are not in the bill, needs to be considered. *Ed Depaoli*

(a) Range Improvement (1) In General--Page 37, line 24 Insert "including the value to wildlife, especially of vegetation enhancement or water development programs". *W.A. Laycock*



(a) Range Improvement Cooperative Agreements (4) Nonstructural Range Improvements--This section is somewhat unclear as to who is entitled to participate in the benefits of such an improvement. If a wildlife group participated in the improvement of elk habitat, would livestock have to be fenced out or elk fenced in to assure equality of benefits? If this section intended to assure that the permittees and lessees involved receive equal benefit to their input, it needs some clarification. *Chad Gibson*

(a) (5) Incentive--Page 39, line 14 At the end of this section add "This agreement should document expected value of the proposed improvement to wildlife and other multiple uses of the land". *W.A. Laycock*

(b) Range Improvement Permits (3) Authorized officer to issue--Should read as follows: A range improvement permit requested pursuant to Section 4 of the Taylor Grazing Act (43 U.S.C. 315) shall be issued by the authorized officer. *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(b) (1) Application--Page 39, line 16-20 It should be indicated where the application for the permit should be directed. This application should also specify the projected value to wildlife, especially for vegetation enhancement and water projects. *W.A. Laycock*

(b) Range Improvement Permits (5) Control--Page 40, lines 7-10 (See definition of livestock.) This could include wild horses and burros (WH&B). If so, the permittee can prevent WH&Bs from drinking at these permitted waters. Is that the intent? *Lewis Copher*

(c) Standards, Design, and Stipulations--Page 40, line 16 After "improvements" add "in compliance with state law" then strike the rest of the sentence. *New Mexico PLC*

(e) Removal and Compensation for Loss of Range Improvements (3) (A)--Page 41, line 22 After "constructed" add "or purchased". *New Mexico PLC*

(e) Removal and Compensation for Loss of Range Improvements (3) (B)--Page 42, line 6 Strike the period and add "and with consideration of reduction of the value of the base property". *New Mexico PLC*

(e) (3) (A) In General--Page 41, line 24 Add the following language: "and the capitalized value of the grazing permit". *Nevada Cattlemen's Association*

(e) (3) (B) Fair Market Value--Delete the word "Fair" on lines 1 and 3. Insert the following"

(B) (1) Market value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;

2. Both parties are well informed or well advised, and acting in what they consider their own best interests;

3. A reasonable time is allowed for exposure in the open market;  
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto, and  
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.  
(B) (2) Value determined by a state licensed appraiser who is acceptable to both parties.  
*Nevada Cattlemen's Association*

(j) Transfer of Ownership of Improvements--Page 43 Strike entire section. *New Mexico PLC*

It is suggested that after page 43, line 20 a part (k) be added to read as follows:

(k) "Satisfaction of Requirements of Other Laws--

(1) Range improvements consistent with and recognized in a land use plan as a management method that will help attain the management goals and objectives of the land use plan, or are generally recognized by range management professionals as improvements that will accomplish the goals and objectives of a land use plan, will not require any study or assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to be part of an approved Allotment Management Plan." Range improvement activities such as brush control on specific allotments, where NEPA has not normally been applied, are being challenged by environmental groups based on their belief that NEPA assessments must be carried out for each individual improvement activity. These actions have slowed the improvement process and in many cases interfered with management activities that could speed recovery and protect rangelands. This act should help clarify where and at what stage NEPA is necessary. *Oregon Farm Bureau*

## SEC. 123. WATER RIGHTS.

(a) In General--After "In general" insert "No federal agency shall apply for a water right, or pursue any pending water right claim based on beneficial use by livestock not owned by the United States or for wildlife not under the direct jurisdiction of the United States, nor shall they interfere in anyway with the issuance or adjudication of water rights to individuals." Add language on Lines 22 through 24 here, place a period after "law" on line 24 and delete the rest of the sentence. *New Mexico PLC*

(a) In General--Page 43, line 25 After "law" insert "(s), statutes, regulations and policies." *WWGA*

(a)--Page 43, line 22 Insert the following before "No water rights": "No federal agency shall apply for water rights or pursue any pending water right claim based on beneficial use by livestock not owned by the U.S. or for wildlife not under the direct jurisdiction of the U.S. Nor shall they interfere in any way with the issuance or adjudication of water rights to individuals." *Nevada Cattlemen's Association*

(c) Rule of construction--Page 44, line 8 Delete "in" and insert "to" and add "government" after "States". *CCA*

## SEC. 124. MANAGEMENT OF GRAZING LAND UNDER THE JURISDICTION OF OTHER DEPARTMENTS AND AGENCIES.

Any memorandums of understanding developed under the terms of this section must be entirely within the authority and scope of this Act. *CCA*

### Subtitle D—Authorization of Grazing Use

Strike the words "grazing use" and insert "stocking rate". *New Mexico PLC*

## SEC. 131. APPLICATIONS.

Page 45, lines 11, 13, 15, 18, 19, 24-25, Page 46, lines 3-4, 6-7, 20—Strike the words "grazing use" and insert "stocking rate". *New Mexico PLC*

(c) (1) (B) (ii)—Page 46, change (ii) to "Custom and Culture" then renumber (ii) to (iii), (iii) to (iv), (iv) to (v) and (v) to (vi). *New Mexico PLC*

(c) Conflicting Applications (1) Factors to be Considered (B)—Page 46, line 9 Somewhere in the list of factors should be the statement: "Applicants must provide proof that they are legitimate livestock operators and intend to use the permit for the authorized amount of livestock grazing". *W.A. Laycock*

## SEC. 132. GRAZING PERMITS OR GRAZING LEASES.

(b) Term (3)—Page 47, line 12: Delete "or" and add "in which case the permit or lease will be issued up to the commencement of the public purpose" *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(b) Term (3)—Page 47, lines 11-15—Delete this whole subsection. *Oregon Farm Bureau*

(b) (3) Term—Page 47 A shorter term must be supported by sound scientific data, especially in light of the move toward "adaptive management" by the agencies. Delete this language entirely. *CCA*

(c) Renewal—Page 48, line 3 An item (4) should be added after line 3 that states:

(4) The renewal of any permit shall not include cuts in the amount of livestock use. Any reduction in amount of use allowed must be documented as prescribed in Section 136 (a) (2) (Note: with suggested wording changes, see that section). *W.A. Laycock*

### SEC. 133. FREE-USE GRAZING PERMITS.

### SEC. 134. OTHER GRAZING AUTHORIZATIONS.

(a) Exchange of use Grazing Agreements (2) Extent of Use--Page 49, line 7 Add at the end of this section: "Carrying capacity must be determined by standard practices and taking into account the carrying capacity for wildlife where applicable. This should include value of water sources on the land offered both for livestock and wildlife that make adjacent Federal lands usable or more valuable for grazing by either livestock or wildlife". *W.A. Laycock*

(a) Exchange of use Grazing Agreements (2) Extent of Use--Page 49, line 7 After "exchange of use" insert "as determined by the owner of the private land". *WWGA*

(c) Crossing permits--Page 49, line 22, place a period after the word "permit" and add "no crossing permit shall be required of a permittee for movement of livestock in a reasonable and prudent manner when such movement is necessary to obtain grazing preference authorized by a grazing permit or lease." *New Mexico PLC*

(d) Special Grazing Permits or Grazing Leases--Page 50, This section should require consultation with state and local government officials before a permit for use by privately owned or controlled indigenous animals is issued. *Chad Gibson*

(d) (1) In General--Page 50, line 5 It is not clear what is intended by the word "indigenous" animals. Would this include tame or otherwise raised bison and elk? *W.A. Laycock*

### SEC. 135. OWNERSHIP AND IDENTIFICATION OF LIVESTOCK.

(c) Marking or Tagging--Page 51, lines 3-5 This stops BLM from using ear-tagging to stop trespass even where it is chronic. It is not clear how this restriction can be justified, unless Congress wants livestock trespass. *Lewis Cipher*

### SEC. 136. TERMS AND CONDITIONS.

(a) In General (1) Specifications--Page 51, line 17, strike "specify" and insert "identify" and after "lease"(line 21) add "After consultation, cooperation and coordination with the permittees and affected landowners". *New Mexico PLC*

(a) (1) Specifications--Page 51 The legislation must ensure that the specifications attached to a grazing permit or lease must be taken from an allotment management plan and not left to the sole discretion of the authorized officer. *CCA*

(a) (2) Amount of Use--Page 52, lines 1-2 After "monitoring" add the words "of range condition and trend" and at the end of (2) add the sentence: "Livestock carrying capacity must be determined by measured trend studies over time and may not be based solely on utilization, stubble height or residue measurements." *W.A. Laycock*

(a) (3) Cancellation--Page 52, lines 3-7, amend this section to include the following subsections:

(a) (3) (A) When a permittee who leases the base property commits an act which results in the cancellation of the permit in whole or in part, the landowner shall have two years in which to regain control of the base property and grazing preference, or to transfer the canceled preference to another qualified applicant.

(a) (3) (A) (i) If the landowner has not assumed control of a canceled or partially canceled permit within two years, the BLM shall transfer the preference to other qualified applicants, which may include subsequent owners of the original base property. *Budd-Falen, Nevada Cattlemen's Association*

(b) No Special Terms or Conditions--Preventing the implementation of Standards and Guidelines, will reduce the amount of management flexibility available to the agency and will cause problems for both BLM and industry.

At present, the provisions of an AMP are made enforceable by placing a term and condition to that effect in the lease, permit, or annual bill. This provision in LGA will prevent that, which makes AMPs unenforceable. That means that BLM will have no incentive to write AMPs. This will discourage any sort of on-the-ground planning.

Under LGA the only course of action to resolve resource concerns would be adjusting numbers and the season of use.

Some problems, such as management of riparian areas, for example, may not readily lend themselves to solution by adjustment of numbers or even of season of use. Absent any other enforceable provision, substantial cuts in the stocking rate may be needed to correct the problem. This lack of flexibility is likely to harm the operator more than provide a benefit. To ensure compliance, this restriction on BLM flexibility will, again, force the manager to go for terms and conditions that will be more extreme than would otherwise be the case.

This assumes that the restriction also works to prevent BLM from placing enforceable terms and conditions in the annual bill as has been past practice. If this is not the case, then a restriction in the terms and conditions that can be placed in the permit or lease itself would not be a particular problem. This point should be clarified, or it will probably have to be clarified in court.

This section conflicts with 121 (d) which requires AMPs to be incorporated into permits and leases. Since "incorporation" does not make the AMP mandatory without a term or condition in the permit making it so, it is questionable whether the AMP is a binding document as the bill now reads. The issue must be resolved now, or it will be resolved in court later if the bill becomes law.. *Lewis Cipher*

(c) Modification--Page 52, line 14 Strike "interests" and insert "landowners". *New Mexico PLC*

(c) Modification--Page 52, line 14 After "permittees" insert "and", delete "and other affected interests". *WWGA*

Page 52, line 18--Insert "Rule of Construction after (c): Terms and Conditions of a Section 15 grazing lease shall be restricted to a billing of the lessee for the number of federal AUM's of livestock forage, the season and number of livestock on the leased area of federal land to be determined by the lessee. If the Agency determines that the use made by the livestock of section 15 federal lands in the livestock lease area is causing unacceptable impacts to the federal lands under lease, it shall be the full responsibility of the Agency to fence and maintain the area(s) of federal lands in a manner to mitigate those unacceptable impacts." *WWGA*

### SEC. 137. FEES AND CHARGES.

This section should give permittees the option of selecting payment for actual use at the end of the grazing season. *CCA*

The provisions of Section 137 on pages 52 through 58 relating to surcharges should be deleted, or in the alternative, Section 137 (a) (3) (A) (ii) on page 55 should be amended to read as follows:

The operator is unable to make full grazing use, as authorized by a grazing permit or grazing lease, due to the age, death or financial disposition of the primary operator. *Budd-Falen*

(a) Grazing Fees (1) Basic Fee--Page 52, line 23, strike "gross value" and insert "cash receipts". *New Mexico PLC*

(a) Grazing Fees (1) Basic Fee--Page 52, line 21 It is unclear what this basic fee is now or what it might be in the future. The basic fee calculated for 1994 or some other year should be included. *W.A. Laycock*

(a) (1) Basic Fee--Page 52, line 24 Replace the word "livestock" with the words "beef cow-calf operations per cow". These words are definitive and avoid the problem of complicating the formula with additional data which would be required, such as data for sheep, horses, goats, swine, dairy cattle, etc. By narrowing it to "beef cow-calf operations per cow" we can all be more certain what data is to be used. Consideration should be given to including some additional language which would provide the latest (1992) Economic Research Service (ERS) definition of the term "Gross value of production". The ERS definition is as follows: "The gross value of production for livestock commodities includes the value of primary and secondary products, as well as any other related sources of income to the enterprise. Any direct Government program benefits are excluded from receipts. To ensure consistency between costs and returns, income from cooperative memberships, manure sales, and any other income derived from livestock enterprise assets are added to gross value of production (and reported as 'other income') when expenses for these items are not separable from other farm enterprise expenses." The definition

could perhaps be handled by means of insertion of certain wording into the legislative history. The problem we have encountered with the ERS is that they constantly change their methodology, therefore year-to-year comparisons are difficult, if not impossible. *Larry Bourret*

(a) (1) Basic Fee--Page 53, line 1 Delete "in accordance with paragraph (2)"

(a) (2) Criteria--Page 53, lines 9-10 Delete "under paragraph (1)". These two paragraphs do not deal with related subjects and this technical correction would alleviate the current problem of confusion. *Larry Bourret*

(a) Grazing Fees (1) Basic Fee--Proposed Language:

The base fair market value, for each AUM of grazing is equal to the three year average total gross value of production per cow as reported by the National Agricultural Statistics Service for the years 1990, 1991, and 1992 of \$420, multiplied by .06 and divided by 12 which is \$2.00 for the grazing year 1993. The base fee will be updated proportionate to annual changes in the grazing forage market as indicated by the Private Grazing Land Lease Rate reported by the National Agricultural Statistics Service. The current methods for determining Private Grazing Land Lease Rates will continue to be used to adjust the Fee until two years of reliable data are available in accordance with paragraph (2). *Chad Gibson*

(a) Grazing Fees (2) Criteria--Page 53, line 6 to end of section (2) This entire section seems to be setting criteria for establishing the private land lease rate (on page 55, line 14-15), which would not be used under the new formula. *Lewis Cipher*

The grazing fee section is confusing and needs some minor changes and clarifications to be easily understood and workable. To start, we believe that the definition for AUM which contains the change to 7 sheep or goats should be in the grazing fee section, NOT in the definition section. If it remains as is in the LGA, the definition will apply to stocking and conversion rates as well as billing. We do not believe that we should open that discussion at this time, so we have suggested changes in the definition section to maintain the current stocking and conversion rate, and including a definition in the grazing fee section to change the 7:1 for sheep and goats for billing purposes only. *WWGA*

(a) (2) Move this entire section, page 53 lines 6-25 and page 54, lines 1-17, to page 55, line 19, and renumber as (3) then renumber sections accordingly [Page 54, line 18 delete "(3)" and add "(2)"]. *WWGA*

(a) Grazing Fees (3) Surcharge--Page 54 line 18 It is suggested that this subsection be redesignated as (3) Authorized Pasturing. The new subsection would authorize a lessee or permittee to pasture someone else's livestock of the lessee or permittee owned or controlled the base property. This could be thought of as an "authorized sublease" even though that term is technically inaccurate ("authorized pasturing" would be correct). The sublease or pasturing agreement would be "authorized" if the permittee or lessee informed and filed appropriate documents with the agency. By implication, an "unauthorized" sublease ("unauthorized pasturing") would be one in which the agency was not appropriately notified.

The lessee or permittee could conceivably be charged some fixed rate per AUM committed to authorized pasturing up to the amount of active AUMs authorized—in those cases where the permittee/lessee did not control the pastured livestock. This sum (for example, \$1 per AUM) in addition to the normal fee, or twice the normal fee could be used by the owner or holder of the base property as a basis for negotiating a rental or lease rate with the sublessee (or person whose stock is pastured). Transaction costs incurred by the agency would be markedly reduced and net revenues to the Treasury would be correspondingly increased.

In any case, the cost to the lessee or permittee incurred in pasturing someone else's livestock varies from case to case and with the level and cost of nonfee services provided by the landlord. To assume that all ranchers pasturing someone else's livestock on a federal grazing allotments means profiteering is totally incorrect, but this is what the surcharge option as formulated implicitly assures. *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(a) (3) Surcharge--Page 54, line 22 After "lessee" insert "if the total lease charges are in excess of the current annual private native rangeland lease for that state as computed in paragraph (3) following". *WWGA*

(a) (3) Surcharge--Strike entire section. *New Mexico PLC, Nevada Cattlemen's Association*

(a) (3) Surcharge--Page 54-55, lines 18-8, suggested language to follow:

(3) Authorized Pasturing

(A)--A grazing permit or license will only be issued to an entity that;

(i) shows evidence of livestock ownership or a livestock lease arrangement containing authority and responsibility for the control, management and care of livestock.

(ii) shows evidence of ownership of base property or a base property lease including control of the attached preference right.

(B)--For purposes of subsection (a) (3) livestock owned by a spouse, son, daughter, grandson, or granddaughter of the permittee or lessee are considered to be owned by the permittee or lessee. Chad Gibson

(a) (3) (A) (ii)--Page 55, lines 3-6 This should be amended to read as follows: "The operator is unable to make full grazing use, as authorized by a grazing permit or grazing lease, due to the age, death or financial disposition of the primary operator." *Nevada Cattlemen's Association*

(a) (3) (A) (i) Page 54, line 24 After "a" insert "parent". *WWGA*

(a) Grazing Fees (3) Surcharge (C) Livestock Owned by Others--Page 55, line 9 This should make clear that livestock owned by individual owners in a Grazing Association do not fall under this surcharge. Also, somewhere, there needs to be a distinction made between true subleasing and a management contract. *W.A. Laycock*

(a) (3) (C)--Subleasing--"Elderly permittees" are not the only ones with legitimate reasons to sublease. Wording should stress permission of Lessor on basis of justification submitted by



Leasee, recognize the other expenses to Leasee such as fencing and water and security. *Peggy Monzingo*

(a) (3) (C) Livestock Owned by Others--Page 55, lines 13-14 Delete "current year's Federal grazing fee" and insert "the lease amount charged by the permittee or lessee to pasture the livestock." *WWGA*

(a) (4) (B) Payment prior to use--Strike entire section. *New Mexico PLC*

(a) (4) (C) Billing after grazing season--Strike "If" through "season" and begin section with "A grazing fee shall be based..." *New Mexico PLC*

#### **SEC. 138. PLEDGE OF PERMITS OR GRAZING LEASES AS SECURITY FOR LOANS.**

(a) Renewal--Line 6, strike "if", delete line 7 through 12 and insert the following language: (1) No permittee or leasee complying with the rules and regulations laid down by the Secretary of the Interior shall be denied the renewal of such permit, if such denial will impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bona fide loan. *New Mexico PLC*

(a) Renewal, (3)--making the renewal of a grazing permit or grazing lease subject to its accordance with other applicable laws significantly dilutes the meaning of the applicable language in Section 3 of the Taylor Grazing Act. Renewal should be automatic if the permittee has abided by the terms and conditions of the grazing permit or else the value of the grazing permit is inequitably diminished. It is recommended that item (3) be deleted. *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

#### **Subtitle E--Violations and Failures of Compliance**

Strike Subtitle E. *New Mexico PLC*

#### **SEC. 141. CIVIL VIOLATIONS AND FAILURES OF COMPLIANCE**

The bill must include some way to hold authorizing officers (i.e. agency personnel) personally accountable for their actions. Agency personnel must be held to at least the same standard of responsibility as private parties. There should be a penalty for fraudulent statements. *Bill DeVeny*

This section needs some "wordsmithing" and some additional changes to make the meaning clear. We are not sure what the intent of the wording in the bill is (we assume it is accidental) but the LGA makes a second non-willful violation equal in severity and penalty to a willful violation. We STRONGLY disagree with this. *-WWGA*

(b) In General (4)--Page 59, line 20 After "enters into a sublease", you need to add "in violation of the provisions in Section 137 (3)". *W.A. Laycock*

(b) In General--Page 59, line 8, add "intentionally" between "that" and "does".

(1) This paragraph, lines 11-13, on failure to make substantial grazing use is an anachronism from the 1930s and 1940s. It is not necessary and should be deleted.

(c) Penalties (1) In General (C) and

(c) Penalties (2) Second or subsequent willful violation--(B) (page 61, line 15 and page 62, line 2):

(b) (5)--Page 59, lines 21-23 This issue is better addressed in Subtitle F--Unauthorized Use. Only repeated willful unauthorized use should subject a permittee or lessee to the loss of a permit or lease. *CCA*

Grazing preference as defined is more than a mere revocable privilege, as it implies by including cancellation of grazing preference on the two reference lines. It is recommended that the term "and grazing preference" be deleted in both instances. *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(c) Penalties--Page 61, lines 9-24 and page 62, lines 1-3 make the following changes:

Page 61      line 9, replace "a" with "the"  
                  line 10, insert "in question" between "lease" and "for"  
                  line 12, replace the first "a" with "the"  
                  line 12, insert "in question" between "lease" and "for"  
                  line 14, replace "a" with "the"  
                  line 15, replace "a" with "the"  
                  line 16, insert "in question" between "authorization" and "in"  
                  line 23, replace the first "a" with "the"  
 Page 62      line 1, replace "a" with "the"  
                  line 2, insert "in question" between "preference" and "in"

These words have been added to ensure that in a case of violation, the penalty will be ascribed only to the permit, lease, etc. on which the violation occurred. *Oregon Farm Bureau*

(c) Penalties (5) Subleases (a) In General--Page 62-63, lines 18-2 This is a pretty complicated recovery mechanism, and BLM is required to conduct a very intensive investigation, involving the forced disclosure of financial data. It would be far less intrusive and less costly to the public to set a penalty based on the trespass rate, such as double the rate, or something like that. Again, this provision is bad for the operator, in that it is invasive of privacy. Part (C) Additional Penalty page 63, lines 8-11, however, does indicate that BLM can take normal trespass actions in addition to this penalty, which is a good thing. *Lewis Cipher*

(c) Penalties (2) Second or Subsequent Willful Violation--Page 61, line 18 Delete Second or Subsequent. *WWGA*

(c) (4)--Page 62, line 14 Delete "shall" and insert "may". *WWGA*

#### **Insert new Section 142**

##### **Criminal Violations for Interference with Livestock Production on Federal Lands**

###### **(a) Scope of Section**

(1) In General--This section states all of the violations pertaining to the interference with the production of livestock in Federal Lands that may result in imposition of criminal penalties described in subsection (c) against a person on Federal lands.

(2) Other violations--A person that commits a violation relating to Federal Land under a law that applies to all persons generally shall be subject to penalty under that law.

(b) In general--A person that does one of the following shall be subject to criminal penalty under subsection (c):

(1) Knowingly or intentionally takes, appropriates, obtains or withholds livestock from the owner thereof, or causes the loss, death injury of any livestock maintained on Federal Lands.

(2) Knowingly or intentionally takes any action that has the effect of harassing or causing stress to livestock maintained on Federal Lands.

(3) Damages, vandalizes or steals any property related to livestock production located on Federal Lands.

(4) Knowingly or intentionally makes a false report to a Federal agency concerning the use or condition of a Federal Grazing allotment.

###### **(c) Criminal Penalties--**

(1) In General--Whoever commits the crime of interference with livestock production as described in subsection (b) shall be fined or imprisoned:

(A) not more than five years or \$100,000 if the interference causes damage to livestock or property related to the production of livestock exceeding \$2,500; and

(B) not more than 6 months or \$10,000 if the interference causes damage to livestock or property related to the production of livestock less than \$2,500. *Oregon Cow-Cop*

#### **Subtitle F--Unauthorized Grazing Use**

Strike Subtitle F. *New Mexico PLC*

#### **SEC. 151. LIABILITY FOR DAMAGES.**

(a) In General--Should read as follows: "A person who commits an intentional violation..."

(b) No Liability--Page 64, line 8 should read as follows: "...if the person did not commit an intentional violation..."

#### **SEC. 152. NOTICE AND ORDER TO REMOVE.**

**SEC. 153. SETTLEMENT**

(a) Determination of Willfulness--Page 65, line 11 Delete "151" insert "141" and delete "second or subsequent". *WWGA*

(b) Second or Subsequent Willful Violation--Page 65, lines 13-14 Delete "second or subsequent" and, line 15, delete "shall" and insert "may". *WWGA*

(c) Settlement Amount--Page 65, line 24 Delete "151" and insert "141". *WWGA*

(d) (1) Nonwillful Violation--Page 66, line 12 After 'product of' insert "the federal grazing fee". *WWGA*

(d) (1) (A)--Page 66, lines 13-17 Delete section: *WWGA*

(d) (2)--Page 66, line 21 Delete "twice" and insert "5 times", delete "under paragraph (1)" and insert previous section (d) (1) (A) that was deleted above. *WWGA*

(e) Nonmonetary Settlement could read as "An authorized officer shall approve a nonmonetary settlement which precludes as a penalty or stipulation requiring additional cost of a case involving a proven violation described in section 151...". *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(e)--Page 67, line 3 Delete "151" and insert "141". *WWGA*

(g)--Page 67, line 19 Delete "151" and insert "141". *WWGA*

**SEC. 154. IMPOUNDMENT AND SALE.**

(a) In General--Several western states do not have a State Livestock Board and some states have laws that would not allow the authorized officer from selling impounded livestock. It is recommended that the following language be used: ...be impounded and sold in accordance with State law. *Fred Obermiller, Jack Metzger*

(c) Impoundment--Should read as follows (line 9): "...and the unauthorized livestock may be impounded without further notice any time after a 1-month period..." *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

The laws of the states cover this section fully. They may also be at variance with parts of this section. The text of this entire section could be eliminated by inserting "All actions including impoundment and sale of livestock shall conform to State laws governing trespass and stray

livestock". Without assurance that this section conforms to all applicable state law, there are budget implications in potential legal actions to settle disputes. *Chad Gibson*

### Subtitle G--Procedure

#### SEC. 161. PROPOSED DECISIONS.

Timeframes should be established within which agency decisions must be made. If the timeframes are not met, the requested permit will take effect. right now agencies are in gridlock and doing nothing but generating mounds of paperwork and elaborate plans. *Bill DeVeny*

(a) Proposed Decisions on Grazing Permits or Grazing Leases (1)--Page 70, lines 14-19 Violations require service of a proposed decision for any violation of this title, but does not make clear what is to be done in the case of violations of other laws. If the intent is to make it impossible to issue a decision except in cases of these enumerated violations (preventing the enforcement of standards and guidelines), then this wording does not do that. *Lewis Cipher*

(a) Proposed Decisions on Grazing Permits or Grazing Leases (2) (B)--Change "15 days" to "30 days". *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

(a) (1) (A)--Page 70, line 17-18, strike "by certified mail or". *New Mexico PLC*

(b) Proposed Decisions on Alleged Violations(2) (B)--Change "15 days" to "30 days". *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

#### SEC. 162. PROTESTS

Page 72, line 12 After "permittee" insert "or" and delete "or other affected interest". *WWGA*

Page 72, line 14--Strike "or" and insert "and". *New Mexico PLC*

Page 72, line 15--Change "15 days" to "30 days". *Fred Obermiller, Bob Sears (Idaho, Oregon, Nevada)*

#### SEC. 163. FINAL DECISIONS.

(a) No Protest--Page 72, lines 18-19 Delete "proposed" and insert "final" and delete "become the final decision of" and insert "be issued by". *WWGA*

## SEC. 164. APPEALS.

The appeals process needs to provide for resolution of disputes under strict standards for accuracy with review by outside parties and some form of binding arbitration so disputes can be settled short of going to court. *Bill DeVeny*

Concern was expressed over the lack of ability to have an appeal process and that the local officer has too much power. It was suggested that there should be a hearing over the conflicts before one of the councils rather than leaving the decision on the conflict up to the authorizing officer. The question was also asked: Do the Committees/Councils have any teeth and if so what or where are they? *Nevada Cattlemen's Association*

Appeals--Under the Comb Wash settlement it has become possible for an appeal or protest to be filed on BLM's Annual Billing for the yearly grazing fee.

Clarification is needed to show that the annual bill for grazing fees is not a protestable/appealable document.

The Office of Hearings and Appeals accepts almost anything as an appealable decision, including a letter saying that something is not a decision. Since the LGA does not repeal any other law, merely specifying how one must appeal/protest a formal decision in the LGA in no way outlines how protests and appeals are to be dealt with when a formal decision is NOT in view. *Lewis Cipher*

(a) In General--Appeal timing--Is there a requirement of prompt answer to appeal? *Peggy Monzingo*

(a) In General--Page 73, lines 7-8 After "permittee" inset "or". *WWGA*

(a) In General--Page 73, lines 5-12, amend section 164 (a) to read as follows:

(a) (1) In General--After the decision of an authorized officer has become final, a permittee, lessee or affected interest may appeal the final decision for the purpose of a hearing before an administrative law judge by filing a notice of appeal in the office of the authorized officer within 30 days after the service of the final decision. The hearing shall be conducted pursuant to 5 U.S.C. Sections 554-559.

(a) (2) When a grazing decision is appealed to an Administrative Law Judge, the burden of proof shall be on the proponent of the rule or order. The standard of proof shall be a preponderance of the evidence.

(a) (3) The Administrative Law Judge shall have the authority to rule on the credibility and validity of all evidence and other material relied on by any party, regardless of the source of said evidence and other material. *Budd-Falen, Nevada Cattlemen's Association*

This section is internally inconsistent and while it attempts to streamline the nuisance appeals process, by so doing it violates the principle of separation of powers. It is recommended that the following changes be made:

(a) In General--~~delete the clause reading "with respect to which a protest under section 162 was timely filed."~~

(c) Expeditious Dismissal of Nonmeritorious Appeals--~~delete the entire subsection.~~ *Fred Obermiller*

(b) Suspension Pending Appeal (2) (A)--Page 73, line 20, delete "may" and replace with "shall".

(b) Suspension Pending Appeal (2) (A)--Page 73, line 23, delete "if" and replace with "unless".

(b) Suspension Pending Appeal (2) (A)--Page 74, line 1, between "from" and "delay" insert the words "failure to".

(b) Suspension Pending Appeal (2) (A)--Page 74, line 1, delete the first "of" and replace with "the". These changes are to ensure that a permittee is not penalized or the use of his/her permit is not affected while a decision is being appealed. *Oregon Farm Bureau*

(b) Suspension Pending Appeal (2) (A)--Pages 73-74, lines 19-2 This is confusing. What is the reason for a hearing by an administrative law judge if the final decision is still the District Manager's. *Lewis Cipher*

(b) Suspension Pending Appeal--Effectively eliminates suspensions, however, the "29 cent" appeal (though a few cents more expensive) will still be there. Sometimes, however, an appeal of the decision locks the permittee or lessee in a very unfavorable situation, which can go on for years, and the LGA lacks a "safety valve".

The Suspension is limited to cases where a decision is made on a grazing permit application. The effect of an approval of the application and the filing of an appeal would be to cause the approval to be suspended, perhaps for years. If the permit application is denied, the effect of a suspension would be about the same as no suspension. In either case, the permit would not be issued until the appeal is settled. The District manager could probably not allow the permit decision to remain in force, since it would likely be hard to prove that a failure to issue would cause "imminent and irreversible damage to land resources". In fact, that standard is so difficult to meet that a suspension would be very rare even if not limited to grazing permit applications.

*Lewis Cipher*

(b) (2) (B) Basis of Order--Page 74, line 6 After "art" insert "range monitoring". *WWGA*

(c) Expeditious Dismissal of Nonmeritorious Appeals--Page 74, Delete section 164 (c) or amend to read as follows:

(1) Examine each appeal as soon as possible after it is filed and within thirty (30) days forward the appeal to the Office of Hearings and Appeals.

(2) The District manager may include a recommendation to the Office of Hearings and Appeals that the appeal be dismissed for failure to raise a substantially meritorious issue.

(3) When a permittee or lessee appeals a BLM decision which is made effective immediately, the District Manager shall immediately forward the appeal to the Office of Hearings

an Appeals for an expedited determination of whether the full force and effect aspect of the decision is warranted under Section 164 (b). *Budd-Falen, Nevada Cattlemen's Association*

(c) (2)--Page 74, line 15 After "expeditiously" delete through the end of (d) and insert "forward an appeal to the Office of Hearing and Appeals within 30 days." *WWGA*

(c)--Page 74, line 17 Insert a new (3): "With respect to a new decision issued in full force and effect and appealed by the permittee or lessee, the Authorized Officer shall immediately forward the appeal to the Office of Hearing and Appeals for an expedited hearing on the merits of the full force and effect decision." *WWGA*

(d) Authority--Page 74, lines 17-18, delete this section. *Budd-Falen, Nevada Cattlemen's Association*

### Subtitle H--Advisory Committees

Both the Interior Regulations and LGA try to solve the FACA problem with specified advisory boards under FACA. Neither will be effective unless FACA can be amended to allow land-use agencies to participate with CRM groups. The Forest Service considers it illegal for their employees to participate on these groups. This is the total reverse of Congress' intent in passing FACA, to be sure, but that is how it is now interpreted. *Lewis Cipher*

#### SEC. 171. PURPOSE.

#### SEC. 172. OBJECTIVE.

#### SEC. 173. RELATION TO OTHER LAW.

#### SEC. 174. POLICY.

(a) In General--After "General" add "after consultation, cooperation and coordination with State and local officials". *New Mexico PLC*

(a) In General--Page 75, line 26, delete the word "citizens". By so doing the act will allow all major interests to be involved. *Oregon Farm Bureau*

#### SEC. 175. GENERAL PROVISIONS.



(a) Charters (1) In General (A)--Page 76, lines 16-17 Some guidelines are needed to guide the subject matter area(s) and functions of the Advisory Committees. What will be in the "Charter"? This is very broad as written. *W.A. Laycock*

(a) Charters (1) In General (B)--Page 76, line 18 Does the committee have any function other than to receive the files? *W.A. Laycock*

(c) Composition (3) Qualifications (C) and (d) Avoidance of Conflicts of Interest (1) Participation in Deliberations--Page 78, lines 10-20 It does not seem logical to exclude anyone with a grazing lease, etc. from a committee. It would be better to add item (D) after line 12, page 78 to read "If a person or employee of an organization that holds a grazing lease, license, permit, contract, or claim that involves land or resources administered by the Secretary has special knowledge or experience that is needed to accomplish the committee functions to be performed, that person shall not be excluded from the committee." Then delete (d) (1). *W.A. Laycock*

(d) (1) Request for Response--Page 83, line 18 Delete "by unanimous vote of its members" and insert "by a 2/3 majority". *Nevada Cattlemen's Association*

(f) Compensation and Reimbursement of Expenses--Page 79, lines 18-22 This provision eliminates travel expenses, even though BLM used to pay for travel for District Advisory Councils. Would make it hard for the "little guy" to be a RAC member, and thus narrow public participation. *Lewis CIPHER*

(f) Compensation and Reimbursement--Page 79, lines 18-22 Won't reimbursement of travel expenses be necessary to get qualified people to participate, especially at the national level where meetings might be at some distance, especially in Washington, DC? *W.A. Laycock*

## SEC. 176. RESOURCE ADVISORY COUNCILS.

(a) Resource advisory council for each grazing district--Page 79 I suggest that the appointments be made from lists submitted by the Governor of each state. *W.A. Laycock*

(a) Resource advisory council for each grazing district--Page 80, line 2 Strike "counties" and insert "county officials". *New Mexico PLC*

(a) Resource Advisory Council for Each Grazing District--Page 80, line 4 The big problem is that GACs and RACs can only advise within "grazing districts". For section 15 or lands outside of grazing districts, apparently both are powerless, though this is less clear with respect to the GAC. *Lewis CIPHER*

(b) Membership (1)--Page 80, line 9, strike "social" and insert "custom, culture". *New Mexico PLC*

(b) Membership (3)--Page 80, line 16, strike "state" and insert "district". *New Mexico PLC*

## SEC. 177. GRAZING ADVISORY COUNCILS

Page 84--Add the following language: "Conflicts will be heard by the council so they can make a recommendation to the authorizing officer before he/she makes a decision." *Nevada Cattlemen's Association*

It is not at all clear why there are both "Resource Advisory Councils" and "Grazing Advisory Councils". Isn't there a great deal of duplication of effort? Getting enough volunteers to serve on these may turn out to be quite a problem. It really needs to be made clear why both these Councils are needed. *W.A. Laycock*

(b) Membership (1)Representation of interests--Page 84, lines 16-20, delete everything after "be" or the balance of the paragraph and insert the following language: "elected from among permittees and leasees, an elected county official and a member representing wildlife interests. Membership shall be no less than 7, no more than 9 members. *New Mexico PLC*

(b) (3) Residency--Page 85, line 3, strike "or adjacent to". *New Mexico PLC*

(c) Responsibilities--Page 85, lines 10-11 and 16 A new section, not within the draft, was added to make clear that the council can advise on range improvement funds under PRIA. Unfortunately, normal range betterment funds are not under PRIA, and BLM has not appropriated any PRIA money for the past 15 years or so, so this provision is moot, from a practical matter. Also in line 16, it is not clear what a "permit management plan" is. *Lewis CIPHER*

(c) Responsibilities--Page 85, lines 9-16 Shouldn't this Council, if it exists, have some say on the expenditure or distribution of the Range Betterment Funds? *W.A. Laycock*

(d) (1) Request for Response--Page 85, line 21 Delete "by unanimous vote of its members" and insert "by a 2/3 majority". *Nevada Cattlemen's Association*

## SEC. 178. MEETINGS.

## SEC. 179. CONFORMING AMENDMENT AND REPEAL.

(b) Repeal--Page 90, line 5 Insert "402 and" after "Section". *WWGA*

## Subtitle I--Reports

### SEC. 181. REPORTS.

(a) In General (1)--Page 90, line 14, between "directly" and "in" add "district by district" *New Mexico PLC*

## TITLE II--GRASSLAND

### SEC. 201. REMOVAL OF GRASSLANDS FORM NATIONAL FOREST SYSTEM.

#### MISC.

The rules regarding the use of Range Betterment Funds probably should be included. As noted on page 31 of the Public Lands Council review of the Draft Environmental Impact Statement (DEIS) on Rangeland Reform--FLPMA and the Taylor Grazing Act directs portions of the annual grazing fee receipts be used for on-the-ground range improvements. These 2 Acts plus PRIA indicate that these funds are supposed to be spent on range improvements, not agency salaries, management of wild horses and burros, administrative costs and preparation of environmental assessments. The DEIS further proposed that these funds be used for planning projects, conducting environmental analyses, compliance inspections and consultation with the interested public as a permitted use of Range Betterment Fund monies.

Suggestion: Include in the appropriate place a description of the Range Betterment Fund distributions as they now exist. Then add the statement that "Range Betterment Funds must be used for on-the-ground range improvements and cannot be used for: salaries, administrative expenses, management of wild horses and burros, planning, compliance inspections not related to the range improvements funded or consultation with interested public. The monies can be used for environmental analyses required for the installation of the range improvement but not for other NEPA-related documentation". *W.A. Laycock*



## Utah Production Credit Association

Evanston Branch  
848 Front Street  
Evanston, Wyoming 82530  
307/789-9420  
Fax: 307/789-3806

July 13, 1994

Julian Land & Livestock Co.  
409 Quartz  
Kemmerer, WY 83101

Dear Truman and Marie:

This letter is in regard to our phone conversation on May 31, 1994. Utah PCA requested on November 19, 1993 that you start considering different alternatives or options regarding your operation as we were concerned with the future viability of the sheep industry do to the changes in the Wool Incentive Program and Range Reform.

Again, Utah PCA is requesting you submit a letter outlining some alternatives or options you have considered. The reasons Utah PCA is requesting this letter is we have concerns regarding the sheep industry, such as, the Wool Incentive reduction, Range Reform, predator problems and the volatility in the sheep markets. As we have discussed before, the elimination of the Wool Incentive Program and the increased grazing fees, your operation break-even will increase by \$.28 compared to the existing break-even of \$.60, unless you can make operational changes to reduce your overall expenses or increase income.

This letter we are requesting you to submit is not binding. However, we feel you should be thinking of different alternatives and options regarding your operation. If you have any question or concerns, please contact me. Thank you.

Sincerely,

Chuck Wimmer  
Branch Manager.

STATEMENT BEFORE THE  
COMMITTEE ON RESOURCES,  
SUBCOMMITTEE  
ON PARKS, FORESTS AND LANDS  
U.S. HOUSE OF REPRESENTATIVES  
ON THE LIVESTOCK GRAZING ACT  
BY  
ALLAN SMITH, CHAIRMAN, PUBLIC LANDS COMMITTEE  
UTAH CATTLEMEN'S ASSOCIATION  
ON BEHALF OF  
UTAH CATTLEMEN'S ASSOCIATION  
UTAH FARM BUREAU FEDERATION  
UTAH WOOL GROWERS ASSOCIATION  
July 11, 1995

I am Allan Smith, a third generation rancher from northeastern Utah presently operating a cow-calf operation of some 350 head. The federal ranges are a vital part of my total cattle enterprise. I summer my cattle on part of the Uintah National Forest for some three-plus months. From mid October through January, I use my improved private range, then transfer my stock to my BLM permits until the end of February, at which time I return to my private ranges. Each one of these grazing units must be considered a part of the whole and are interdependent upon the other with little value on their own.

I support The LIVESTOCK GRAZING ACT and the vast majority of the western livestock industry supports it with a few minor changes. In the recent summer meeting of National Cattlemen's Association Western Regions V and VI at Park City, Utah, all western state Cattlemen's presidents signed a letter of support for this bill. The National Public Lands Council here in Washington also supports this bill in the most part. On behalf of the Utah Cattlemen's Association, Utah Farm Bureau Federation, and Utah Wool Growers Association, I urge passage of the bill for the following reasons.

The proposed grazing fee, even though it is a 30 percent increase from this year's

fee, provides a fair return to the United States for the forage utilized by livestock. It is simple to calculate, based upon the gross return of the livestock, all data would be gathered by the Economic Research Service, and it is similar to the way other user industries such as mining and timber are charged for public land user fees. The proposed fee measures the value of the federal forage after it is converted into beef, wool and lamb.


My cash expenses, including past grazing fees on Forest Service lands, have been running at about \$16.00 per AUM, not including any interest cost. Much of this high cost is due to fence building and maintenance and other federal regulatory requirements. My BLM costs are somewhat lower. My cattle operation cannot sustain a much higher grazing fee. For these reasons, I believe early passage of this bill is vital to the western rural economy.

There has been a drastic reduction of rangeland improvements since Secretary Babbitt's Rangeland Reform '94 was announced because those pending rules create so much uncertainty about the viability of our industry. The proposed 15 year term permits will encourage future federal rangeland improvement projects, once again allow the banking industry to support the western livestock industry and provide a greater amount of stability.

I recommend that any standards and guidelines be developed at the BLM district or forest level. There is too much diversity in range conditions even at the state level.

I also suggest the proposed grazing advisory council members be allowed to serve on the councils of neighboring states wherever the permittees operate across state lines. This is common in Utah.

NEPA concerns have been addressed by this bill and should allow for better operation of the agencies and promote less office paper work and put more personnel back on the ground. Our industry welcomes constructive input from all disciplines in future management



decisions in order to provide a sustainable forage base on which we depend.

The Livestock Grazing Act is fair to all interests and this issue needs to be decided now so we can go back to providing food and fiber for our consumers, and so Congress can move forward with other issues facing our great nation.

Again, I thank this committee, and particularly the bill sponsors, for this opportunity to express my brief remarks and I would be glad to answer any questions.



*American Fisheries Society*

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LEE C. REDMOND  
President 1994-1995

PAUL BROUHA  
Executive Director

Testimony of Paul Brouha

Executive Director

American Fisheries Society

Before the

House Resources Subcommittee

on

National Parks, Forests and Lands

regarding H.R. 1713

The Livestock Grazing Act

to provide for uniform management  
of livestock grazing on Federal land,  
and for other purposes

July 11, 1995



Mr. Chairman and members of the Subcommittee, I thank you for the opportunity to appear before you today to present the American Fisheries Society's views concerning H.R. 1713, The Livestock Grazing Act.

The American Fisheries Society (AFS) is an international, professional and scientific organization of nearly 9,000 fisheries managers and aquatic scientists. Founded in 1870, AFS is the world's oldest and largest organization dedicated to strengthening the fisheries profession, advancing fisheries science, and conserving fisheries resources. AFS Chapters exist throughout North America and members reside in 75 countries.

Domestic livestock grazing is permitted on 159 million acres of Federal land administered by the U.S. Bureau of Land Management (BLM). Fifty-eight percent of the BLM rangeland is in fair or poor condition. Fifty-two million acres of big game habitat, 100 million acres of small game and nongame habitat, and 19,000 miles of sport fishing streams have declined in quality as a result of land management practices, including overgrazing. These degraded habitat conditions also have negative implications for endangered and threatened species. It is well known that livestock often spend a disproportionate amount of time in riparian areas, especially in the hot seasons, on rangeland in the arid and semi-arid west. Unfortunately, overuse has resulted in considerable damage to riparian zones with resultant degradation of aquatic and riparian habitats.

- o Streamside vegetation has been reduced or eliminated.
- o Stream channels have been widened and aggraded.
- o Erosion and headcutting has lowered water tables and reduced minimum streamflows.

The most apparent effects on fish habitat are the reduction of shade, cover, and terrestrial food supply. Resulting increases in stream water temperature, degradation of water quality, changes in stream morphology, and the addition of fine sediments means fewer fish can survive in such streams. Despite such degradation we know resident recreational and anadromous commercial and subsistence fisheries are a tremendously valuable component of the public lands. The good news is that with improved livestock management practices degraded fish habitats are restorable. The American Fisheries Society's position statement "The Effects of Livestock Grazing on Western Riparian and Stream Ecosystems", which I have attached to this testimony, details cooperative, science-based strategies to accomplish such restoration. Please consider these ideas as you address rangeland management issues.

Against this tableau of findings, against the knowledge of how to restore degraded streams, and against the increasing cooperative spirit to enhance overall productivity and achieve balanced multiple use on the part of all public land users comes H.R. 1713.

It proposes to fracture the emergent cooperation between livestock grazers and other public land users by making livestock grazing the primary use on the public lands. It disenfranchises the public by permitting only narrowly defined "affected interests" to participate in rangeland planning and management. It exempts grazing permits from the purview of the National Environmental Policy Act. It creates more than 100 grazer-dominated advisory boards which have the sole authority to establish range improvement objectives and to make management decisions. It prevents anyone except a permittee/lessee from appealing a decision made by one of these boards. It sets livestock carrying capacity at the maximum stocking rate possible "without inducing permanent damage to vegetation or related resources." With this definition, at the same time H.R. 1713 provokes conflicts among present users, it also ensures that future generations of users will be battling over further degraded rangeland ecosystems.

I could go into greater detail about the provisions of this bill that set public rangeland management back to before passage of the Taylor Grazing Act but I will leave that for others testifying here today. Suffice it to say we oppose H.R. 1713 becoming law and we strongly encourage you to endorse the new BLM regulations that have been arrived at through broad public participation throughout the West. They are not perfect. They do, however, focus on establishing rangeland health, on enhancing overall productivity of all rangeland resources for all users, on state or regional-based rangeland standards and guidelines, and on public involvement by all interested publics. Further, they recognize scientific information and monitoring as a basis for cooperative adaptive management of public rangelands. Finally, the new BLM regulations would do all these things with about 100 fewer advisory boards operating in a much less politically-charged atmosphere. Simply put, while they aren't perfect, we think the BLM regulations are better, cheaper, simpler, and more effective than what is proposed in H.R. 1713, The Livestock Grazing Act.

Thank you for the opportunity to testify.

[exec/paper/HR1713test]

## AFS Position Statement

# The Effects of Livestock Grazing on Western Riparian and Stream Ecosystem

By Carl Armour, Don Duff, and Wayne Elmore

This position paper is the culmination of several years of review and discussion at Division and parent levels of the American Fisheries Society (AFS). The AFS process started in 1982, when the Western Division developed a position paper regarding livestock grazing on western riparian ecosystems as well as a publication on best management practices (BPMs). The Division forwarded its position statement to the parent Society for consideration as a Society-wide position statement. In 1988, the AFS Environmental Concerns Committee (now called the Resource Policy Committee) appointed Carl Armour, Don Duff, and Wayne Elmore to develop the statement, which was ultimately sent to all Divisions, selected Sections, and all Chapters within the Western Division. Comments received by the authors and Environmental Concerns Committee were incorporated into the draft document, and the resulting statement was reviewed by Committee members and the Executive Committee (Excom) at the 1990 annual meeting. The statement was then published in *Fisheries* for full membership review (Jan-Feb 1991 16(1):7-11.). Resulting comments were incorporated into the draft. At that time the issue of grazing fees was discussed as a possible addition to the draft, but the Committee recommended that the fee issue warranted a second position statement and urged assigning this issue to another group of authors for further development.

The Resource Policy Committee, following review by the membership, also sent the draft statement for peer review to selected experts in the field at various Division, Section, and Excom levels. The authors then incorporated these comments into the draft. Excom reviewed the draft during the 1993 annual meeting and approved it as a Society position statement at the midterm Excom meeting in March.

## ABSTRACT

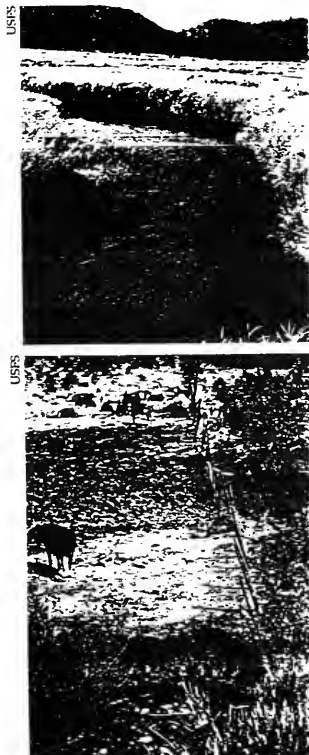
Domestic livestock grazing is permitted on approximately 307 million acres of federal land in the western states. The land is administered by the U.S. Bureau of Land Management and Forest Service. Overgrazing of riparian and stream ecosystems by domestic livestock has damaged thousands of linear miles in the ecosystems. The position of the American Fisheries Society (AFS) is to advocate livestock management practices that result in recovery and protection of riparian and stream ecosystems associated with public and private lands. This policy statement addresses problems caused by overgrazing, and action items that the Society advocates to be implemented to correct problems. The Society does not advocate ceasing of domestic livestock grazing on public lands. Instead, the policy is that grazing is acceptable providing that its management is compatible with the ecological requirements of healthy riparian and stream ecosystems.

## Issue Definition

Domestic livestock grazing is permitted on almost 307 million acres of federal land in 11 contiguous western states. This grazing affects approximately 159 million acres of land administered by the U.S. Bureau of Land Management (BLM) and 132 million acres administered by the Forest

*Carl Armour is an aquatic ecologist at the U.S. National Biological Survey in Fort Collins, Colorado. Don Duff is an aquatic ecologist at the U.S. Forest Service, Salt Lake City, Utah. Wayne Elmore is the national riparian field manager at the U.S. Bureau of Land Management in Prineville, Oregon.*

September 1994



(Top) Streambank and riparian recovery from removal of livestock in Carson-Iceberg Wilderness, California, aids in recovery of threatened Pointe cutthroat. (Above) A fence line contrasts grazed and ungrazed riparian zones in Montana.

Service (FS). Grazing also occurs on nearly 212 million acres of private land.

Overgrazing by domestic livestock has damaged riparian and stream ecosystems throughout the nation. Problems from overgrazing are particularly acute in the West, where lush vegetation is confined to stream corridors. Livestock tend to concentrate in these areas, especially in the hot seasons, where they can overgraze and damage habitat. Overgrazing in stream corridors has been so damaging to habitat that range managers have referred to these sites as "sacrifice zones" (Stoddard and Smith 1955). Past position statements of the American Fisheries Society on riparian area management stated that overgrazing by domestic livestock was one of the principal factors contributing to damage and loss of riparian and stream ecosystems in the West. However, livestock grazing is one of the many uses of public range lands. Because western riparian and stream ecosystems are particularly vulnerable to harm from overgrazing, we conservatively estimate that more than 50% of the habitat in these ecosystems is damaged.

### Background Information

The damage done to western fish and wildlife habitat from overgrazing is difficult to quantify; however, the U.S. Government Accounting Office (USGAO 1988) reported on some problems affecting riparian habitats on public lands. For example, for BLM lands in Colorado, 51% of the area along 5,300 miles of perennial streams was in poor condition due to overgrazing, and 39% was in fair condition. In Arizona, riparian areas were "generally less than satisfactory," and 80% of the riparian area inventoried in Idaho was degraded. In four BLM districts in Nevada, 68% to 93% of the riparian habitat was in poor to fair condition. Similar trends were noted in other states. On all BLM lands it is estimated that 77%, or 15,000 of the 19,000 miles of streams are in unsatisfactory condition (Trout Unlimited 1979). The impaired areas included habitat for threatened and endangered species (USGAO 1988).

The general assessment for the Forest Service (USGAO 1988) was that restoration was needed for most of the riparian areas. Inventory information was incomplete, but statistics were cited for five locations. Approximately 80% to 90% of the stream riparian areas in the Tonto National Forest in Arizona were in unsatisfactory condition compared to 78% of all riparian areas in poor or fair condition in the Modoc National Forest in California. In Idaho, where 162 miles of riparian habitat were inventoried in the Sawtooth National Forest, 37% were in poor condition. Unsatisfactory conditions existed in Nevada in approximately 90% of riparian areas of the inventoried Austin Ranger District. In the Baker Ranger District in Oregon where habitat along 300 miles of streams was inventoried, 15% was in poor condition compared to 45% in fair condition.

The general public has become increasingly aware of the enormous recreational potential of western public lands and the existing management issues. Also, increased urbanization of the West has reduced political

power of more rural, livestock-oriented interests. Thus, recreationists and other users of public lands who are independent of the livestock industry are politically influencing livestock management decisions for public lands. Recreational demands are especially high for riparian and stream zones, yet 70% to 90% of all natural riparian areas in the United States have possibly been altered (Hirsch and Segelquist 1978). In some locations (i.e., Arizona), 95% to 99% of the riparian resources have been lost (Warner 1979).

Livestock damage to fish habitats is amply addressed in the literature (Leopold 1975; Armour 1977; Behnke 1977; Kennedy 1977; Marcuson 1977; Van Velson 1979; Claire and Storch 1983; Duff 1983). Damage includes (1) loss of riparian vegetation by changing the composition and quantity of streamside vegetation and altering channel morphology, (2) lowering the groundwater table and decreasing summer stream flows, and (3) increasing summer water temperatures and winter icing. The result is deteriorated conditions for wildlife, fish, and other aquatic organisms (Chaney et al. 1990). Vegetation is an extremely important influence on hydrologic conditions within a watershed (Elmore and Beschta 1987), and any activity, including overgrazing, that decreases vegetation can adversely affect hydrologic conditions and diminish summer stream flows.

Degraded habitat is generally restorable through improved livestock management practices, but no simple strategy is applicable to all sites (Chaney et al. 1990). Strategies to achieve site-specific management objectives must be well planned, fully implemented, and thoroughly

USFS



USFS



BLM





BLM

Livestock damage to fish habitat includes loss of riparian vegetation and reduced summer stream flows, such as (top left) in Carson Iceberg Wilderness, California. Degraded habitat can be restored, as it was in Sawtooth National Recreation Area (bottom left), Idaho, once sheep were removed. (Top right) The South Fork Crooked River suffered from heavy overgrazing in August 1978 but had greatly improved by 1984 (big photo) after restoration efforts.

monitored for compliance. The strategies include (Chaney et al. 1990) (1) establishing the riparian zone as a separate pasture with specific management objectives, (2) fencing off the zone or controlling livestock use in it by herding, (3) controlling the time of use (e.g., keeping livestock off during periods when streambanks are most vulnerable to damage), (4) benefitting habitat by lengthening the period when grazing is not permitted, (5) altering the intensity of use (i.e., reducing livestock numbers), (6) changing the kind of livestock, and (7) permanently fencing off habitat to prevent livestock access.

### Policy

It is the policy of AFS to promote conservation and restoration of public lands in the United States and to advocate that livestock grazing be carefully managed to protect the nation's natural resources. AFS considers riparian and stream ecosystems especially vulnerable to livestock grazing impacts. Therefore, AFS encourages wise stewardship of these lands and their resources by state, federal, provincial, and local agencies. AFS supports implementation of close coordination and cooperation among all agencies in managing and improving riparian-stream ecosystems on all public, provincial, and private lands in North America.

AFS will aggressively pursue a course of action to create an awareness of scientifically based research and management practices to state, federal, and provincial agencies and to private users of public lands. This action will be designed to contribute to the restoration and conservation of depleted and damaged riparian-stream

ecosystems and their dependent resources. The objective is to enable riparian-stream ecosystems to maintain their natural form, function, and process as well as to maintain self-sustaining populations of fish and provide for aesthetic, scientific, recreational, subsistence, and commercial uses.

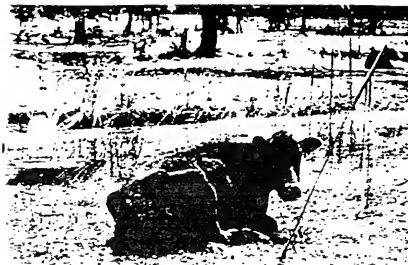
AFS regards livestock grazing on western ecosystems as a practice to be permitted only when careful analyses have shown that it is compatible with other uses, including protection of natural ecosystems. Also, AFS emphasizes that public and provincial lands are owned by all of the nation's citizens, and livestock grazing on these lands is a privilege, not a right. Therefore, AFS must take action to ensure that scientifically sound management is designated as the basis of all livestock grazing system administration to assure restoration, maintenance, and enhancement of riparian-stream ecosystems and their dependent resources across North America. The implementation of an efficient grazing administrative process is especially critical to assure the maintenance and restoration of valuable western riparian-stream ecosystems. Although grazing fees charged by land management agencies need to be adequate for the program's administration, AFS stresses that the primary issues are land conservation and stewardship.

Accordingly, acting through its members, affiliates, and publications, AFS advocates careful management and professional administration of livestock grazing on public and provincial lands. The policy of AFS is

(1) To consider riparian areas to be unique and distinctively valuable habitat and to encourage management practices that are vigorously applied and enforced to protect fisheries, their habitats, and other resources for the benefit of all public land users.

(2) To encourage federal and provincial land management agencies to develop, implement, fully administer, and ensure long-term adherence to scientifically valid allotment management plans, including those for stewardship programs, to meet clearly defined objectives for riparian and stream ecosystems. If grazing conflicts with the health of riparian-stream ecosystems, preference should be given to the recovery and future protection of those ecosystems. The plans should conform to riparian policy and standards and comply with state, federal, and provincial water quality standards. Also, the plans should emphasize accountability for the inclusion of important ecosystem components, including streambank soil and vegetation, instream and channel hydraulic structure, instream water quality and quantity, groundwater retention, and landform geomorphology.

(3) To encourage development of grazing management plans for public lands that include a monitoring



AFS urges land managers to develop scientifically valid allotment management plans to conserve stream ecosystems. The Society encourages plans that monitor these fragile areas and require other practices of goals for riparian quality are not met.

component to document the degree of success in meeting management objectives for their riparian and stream ecosystems. If the objectives are not met, the plan should require implementation of alternative management prescriptions.

(4) To promote public involvement in Adopt-a-Stream programs and activities that encourage cooperative efforts with the Forest Service and Bureau of Land Management to enhance and protect riparian and stream ecosystems through improved administration and management of grazing systems.

(5) To encourage development of management programs with provisions to compensate or reward private landowners who fence off and discontinue use of specified sites to improve and maintain riparian and stream habitat for the benefit of wildlife, fisheries, and soil and water resources. Easements instituted under such programs should require landowners to maintain fenced enclosures and not to plow, mow, burn, spray, or graze within them. Part of such programs could include an option for funding the design and implementation of improved grazing strategies to allow some level of controlled domestic livestock grazing.

(6) To encourage professional societies and conservation organizations to give publicity to private landowners who achieve exemplary success in protecting and improving grazing of public, provincial, and private lands to protect natural values, including riparian and stream ecosystems.

(7) To encourage and assist local, state, federal, and provincial government agencies to acquire funds to accelerate riparian and stream ecosystem inventories and to develop and implement improved

livestock management plans for priority sites regardless of ownership.

(8) To pursue a program of oversight monitoring of government agencies to document if their management of rangelands and riparian and stream ecosystems is consistent with existing land management plans, and also to assist agencies in disseminating information relevant to successful management programs to restore, maintain, and conserve fisheries resources and habitats.

(9) To encourage appropriate state, federal, and provincial agencies to form best management practices (BMPs) for grazing lands and riparian and stream ecosystems that on private lands. The BMP practices could be patterned after examples in Washington and

Oregon for forestry practices, and thus would include strong compliance requirements that emphasize achieving goals for state, federal, and provincial water quality standards and enhancing watershed conditions for soil and water resources on agency and private lands.

(10) Stress the principle that, although a major issue is adequacy of fees charged for the grazing of public lands, the primary issues are land conservation and stewardship. Increases or decreases in fees are issues that must be considered by management agencies for program administration purposes. ➤

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Testimony  
of  
Elden Hughes  
Sierra Club

Before the  
National Parks, Forests and Lands Subcommittee  
of the  
House Resources Committee

Washington, DC  
July 10, 1995

I am Elden Hughes of South Whittier, California. I grew up on a cattle ranch that straddled the North Fork of Coyote Creek on the Los Angeles Plain. This was at a time when there were still cattle ranche on the Los Angeles Plain. Six of my great grandparents were running cattle in California in the 1860's.

I am now retired, but I made my living designing business compute systems. This does not mean I have lost touch with the land. I serve six years (the maximum) on the Bureau of Land Managment's Desert District Advisory Council and served and continue to serve on numerous agency planning bodies on grazing allotments and other land uses.

The Bureau of Land Management carries me as an affected interest on fifty-eight grazing allotments in the deserts and mountain of California. I am so carried because I have hiked, hunted, camped, photographed and led outings on these wonderful public lands that include these allotments.

The Livestock Grazing Act which we are addressing is flawed and in my comments I wish to address two of these flaws: the elimination of public participation and the formula for grazing fees.

#### ELIMINATION OF PUBLIC PARTICIPATION

The Livestock Grazing Act eliminates public participation in the management of the Public Lands. This is a mistake.

#### SOME EXAMPLES OF HOW THE PUBLIC HELPS

This has been a wet year in our mountains, a very wet year. The high country snow pack is just now breaking. Some of the meadows are way too wet for grazing, but the normal time to drive the cattle up to the high county is now. The allottee can't be everywhere. Certainly the range cons can't visit all the meadows. Public interest groups



have folk who understand meadows and they ride and hike and ski. They are in the process of alerting allottees and the managing agency about the meadow conditions. Damaged meadows can take a decade to heal and we all lose.

The BLM laid out a new fenceline range improvement. I discovered it while hiking and I learned later that it was laid out based on a compass course from a bend in a back country road. This was fine except that fencelines tend to generate cattle use trails and impacts and ultimately fence maintenance generates a road. This fence line would go directly through a major archaeological site--Native American hunting blinds and anthropomorphs (giant rock art carvings) 7 feet tall. By alerting the BLM, the proposed fenceline was resurveyed and moved a half mile to the south. The range management purposes were met and an archaeological resource remains unimpacted. This is win-win.

One plague on the Public Lands is the recreational rancher, the one who wants the title "Rancher" but takes none of the responsibility. He has 20 cows and a weekend retreat and the assemblage of trailers and trash he brings to the lands is unbelievable. When the rules are being violated, the public can help make it known and inform the managing agency.

Growing up on a ranch, I accepted the degraded grazing lands as normal and natural. Only as an adult and after much travel and looking at other lands do I now see how heavily we impacted the land--particularly the riparian areas of Coyote Creek. Thistles over my head should have been a clue, but I accepted them.

Now I am watching the return of native grasses to the riparian areas of Kennedy Meadows in Tulare County, Wylie Creek in Los Angeles County and Cedar Creek in Modoc County. Where there is improvement of

the range, the public has been part of making it happen. It has helped supply the vision and much of the volunteer labor. Now there is better fishing and hunting and all the things that are a part of multiple use. Cattle still graze most of these areas, but they are moved in and out. They are not allowed to squat on the land and kill it.

Like me as a boy, there are ranchers who have never seen really healthy range lands. The stumps of the cottonwoods are a clue that the stream dried up, but doesn't tell them that the grazing practices were responsible. Good range management can restore the streams as surely as bad range management can kill them. Good range management pays, but it is hard work and it takes a vision of what the land can again be. The public can be part of the vision and help supply the labor and can serve as the link to the larger community, the urban community whose support is needed for proper multiple use management of these extraordinary lands.

#### PROPOSED GRAZING AUM FEES ARE A RIPOFF

I speak to a second flaw in the Livestock Grazing Act. It represents an absolute retreat from marketplace forces. Using the sponsor's data, the formula produces a fee of \$2.10 for 1992. The cost of the grazing program exceeded \$3.00 in that year. That is a subsidy.

The estimated fair market value of publicly-owned forage as defined and determined by the Dept. of Agriculture and the Interior in 1992 during the Bush administration averaged \$7.68/AUM. \$2.10 is a subsidy.

The \$2.10/AUM is below most state grazing fees. \$2.10 is a subsidy.

This is far below what permittees are subleasing for and far below capitalized permit values. It is clear that the new formula, just like

the old, is cowboy welfare and we oppose it.

Federal permittees should not have an advantage over the vast majority of livestock operators. Taxpayers should not underwrite a fee that allows permittees to profit at the expense of the Treasury through subleasing. Federal lands should not be welfare lands.

And the bad fee structure perpetuates overgrazing and grazing of marginal lands. It encourages livestock operators to resist reductions in authorized numbers. It takes us down the wrong road for all the wrong reasons.

Let's give the marketplace more than lip service. Let's look at real costs and real values. The public lands are enormously valuable and enormously productive, but the Livestock Grazing Act is not the route to get us there.

# California Native Plant Society

1722 J Street, Suite 17 • Sacramento, CA 95814 • (916) 447-2677 • FAX (916) 447-2727

July 11, 1995

The Hon. James V. Hansen  
Chair  
Subcommittee on National Parks, Forests and Lands  
Resources Committee  
United States House of Representatives

re: testimony on H.R. 1713, the Livestock Grazing Act of 1995

Dear Chairman Hansen:

My testimony on H.R. 1713 is attached along with a bibliography and letters from experts in relevant fields.

Thank you for inviting me to testify before the committee.

Sincerely,



Emily B. Roberson, Ph.D.  
Senior Land Management Analyst



*Dedicated to the preservation of California native flora*

Testimony of

Emily B. Roberson, Ph.D.  
Senior Land Management Analyst  
California Native Plant Society  
Sacramento, California

before the

Subcommittee on National Parks, Forests and Lands  
Resources Committee  
United States House of Representatives

regarding

House of Representatives Bill 1713  
The Livestock Grazing Act of 1995

July 11, 1995

Mr. Chairman and members of the Subcommittee:

Thank you for this opportunity to testify concerning HR 1713, The Livestock Grazing Act of 1995.

The California Native Plant Society (CNPS) is pleased to have the opportunity to submit the following testimony on the Livestock Grazing Act of 1995 - H.R. 1713. At the time of this analysis, the bill applies only to lands administered by the United States Department of the Interior's Bureau of Land Management (BLM). We are aware that the current Senate version of this bill, S.852, applies to grazing management by the United States Forest Service (USFS). So these comments address BLM land management primarily, but apply to general federal land management as well.

CNPS is a nonprofit scientific and conservation organization that has worked to conserve California's native flora since 1965. CNPS is an established nationwide leader in rare plant research and conservation. For many years, CNPS has participated in all levels of grazing management planning with the USFS, the BLM and other agencies. We provide the agencies with botanical, ecological and other scientific information through legally mandated public input processes and through other formal and informal exchanges. Our members, staff and officers map rare species on public lands and serve on agency task forces. CNPS publishes many California botany and plant ecology texts including the Inventory of Rare and Endangered Vascular Plants of California (California Native Plant Society, 1994) which is internationally recognized as the primary source of information on the uncommon components of California flora.

Society members are active in 31 Chapters statewide. CNPS membership includes leading scientists, elected and appointed state and community leaders, consultants, small and large business owners, agrarians and others who simply appreciate the most diverse flora in North America.

We want to state clearly that CNPS is not opposed to properly managed livestock grazing on public or private land. What we are opposed to is improper grazing management. We have a long history of working with land management agencies, ranchers, and the scientific community to promote grazing management practices that are compatible with the health of native plant communities and ecosystems and with the survival and expansion of rare native plant species.

Our goals for grazing management are:

1. to ensure that any system of administering livestock grazing improves the condition of public lands so that all multiple uses are sustained in perpetuity.
2. to ensure that any system of administering livestock grazing results in the restoration of public trust in land management agencies by the American people; and that public confidence in government increases as Americans see that their lands and resources are managed properly, cost-effectively and sustainably for all resource values.
3. to ensure that public lands grazing does not result in added costs to or undue regulatory burdens on private property owners and general taxpayers because of agency management practices that degrade resources on public lands; and finally
4. to ensure that definitive and measurable steps be taken to improve biological conditions on western ranges and to solve the ecological and administrative problems that have been enumerated by the U.S. General Accounting Office, range scientists, and others for over thirty years.

CNPS is confident that these goals are shared by the Administration, responsible legislators, and citizens throughout the West and the nation.

Unfortunately, current public lands management rarely meets the goals listed above. University studies and government reports have repeatedly found serious flaws in the management of public rangelands. For the most part, these problems do not reflect shortcomings in current environmental laws. A principal reason for these flaws is lack of enforcement of current federal laws and regulations governing public land management.

### **Impacts of poorly managed livestock grazing**

Poorly managed grazing can have serious adverse impacts on ecosystems. Many of these have been well-documented in recent years by government studies and by independent research.

#### **1. Damage to soils**

Excessive stocking rates or grazing when the soil is too moist can cause soil compaction and other damage (Fleischner, 1994), alter nutrient cycling processes (Shariff et al, 1994), and can substantially increase erosion (Holecheck et al., 1995, Kleinfelder et al., 1992). All of these impacts reduce soil fertility and productivity and can ultimately lead to desertification.

## 2. Damage to streams and fisheries

Through trampling and consumption, livestock can destroy streamside vegetation and alter stream channel morphology. These processes in turn increase water temperatures and reduce the ability of streams to support trout, salmon and other fisheries (Platts, 1991; Clary and Webster, 1989).

## 3. Damage to water quality

Disturbance by livestock can increase the amount of erosion and thus the amount of sediment entering streams. In addition, feces and urine from livestock pollute streams with nutrients and disease organisms (Platts, 1991; Tiedemann et al., 1987).

## 4. Changes in plant communities

As the protective vegetation along streams is damaged, the channel loses its ability to resist the erosive force of water, particularly during peak flows such as snowmelt. Erosion of the streamchannel lowers the water table, and the site dries, replacing normal streamside and meadow vegetation with dry-site species such as sagebrush, lodgepole pine or others (Holecheck et al, 1995; U.S.D.I. Bureau of Land Management and U.S.D.A. Forest Service, 1994).

## 5. Invasion of exotic weeds

Invasive exotic plant species are a multi-million dollar epidemic across the West. Some species, such as thistles, destroy plant and wildlife habitat and are unpalatable to livestock. Others, such as leafy spurge (*Euphorbia esula*) are poisonous to livestock and other animals. Many invasive annuals such as cheatgrass (*Bromus tectorum*) can significantly increase fire danger in infested ecosystems (Billings, 1994).

Livestock have facilitated the spread of invasive and noxious exotic weeds in rangeland ecosystems (U.S.D.I. Bureau of Land Management and U.S.D.A. Forest Service, 1994; Asher, 1993). Livestock carry seeds of these species on their bodies. Trampling creates soil conditions that favor the establishment of weeds and reduce the competitiveness of many native species.

## 6. Destruction of native species

Studies show grazing to be the second greatest threat to California's rare plants, following only development (California Department of Fish and Game, 1984-93). The CNPS Inventory (California Native Plant Society, 1994) lists over 200 California plant species whose rarity can be traced completely or partially to overgrazing. Similar patterns have been observed for birds and other wildlife (Flather, et al., 1994).



## 7. Reduced livestock production

Perhaps one of the most important impacts of poor livestock grazing management is that the resulting environmental degradation reduces the ability of rangelands to produce forage and support livestock. Diminished soil productivity, plant community changes that reduce the availability of nutritious and palatable species, and reductions in water availability all impair livestock production. Studies have shown that moderately stocked rangelands can produce healthier cattle, better weight gain, and higher net cash returns to the operator per cow and per acre than heavily stocked rangelands (Holecheck et al., 1995; U.S.D.I. Bureau of Land Management and U.S.D.A. Forest Service, 1994.).

Attached to our testimony are letters from experts in various disciplines relating to public lands management. These letters demonstrate the wide range of resources impacted by livestock grazing.

## Concerns regarding the proposed legislation

In many places, most of these adverse impacts can be reduced or even eliminated with improvements to grazing management. Examples of such improvements include:

- changes in stocking rates or in season of use,
- use of management systems such as rotational grazing,
- encouraging better livestock distribution through herding or through targeted placement of salt licks and water sources.

CNPS is concerned that H.R. 1713 would impede the ability of BLM managers to use these or other techniques to modernize and improve public rangeland management. The Act would undermine the public's right to cost-effective, scientifically sound management of publicly-owned lands. In addition, the Act would reduce the variety of uses and benefits that the American people realize from their publicly-owned lands.

Our concerns fall into four broad categories: the proposed Act would create barriers to scientific analysis of public land management, barriers to public participation in public land management, and barriers to conservative range management on the ground. In addition, the proposed Act would impair the ability of BLM lands to provide uses and resources other than livestock grazing and forage production.

### 1. Restrictions on scientific input

Our most serious concern is that the Act specifically prohibits environmental analysis of all local grazing management actions, including Allotment Management Plans (AMPs), under the National Environmental Policy Act (NEPA) and restricts NEPA analysis to the Resource Plan level. This would significantly reduce scientific input into and review of BLM grazing

management. NEPA analyses for BLM Resource Area plans have been developed on the premise that site-specific environmental impacts of grazing would be addressed at the allotment level. BLM Resource Area Plans therefore tend to be vague and general in their discussion of grazing, and any scientific or environmental analysis of grazing at the Plan level is also normally vague and general. Most Plan-level NEPA analyses contain insufficient scientific information to make well-reasoned site-specific grazing management decisions. This is because Resource Area NEPA analyses simply were not designed to fulfill that function.

This is not the time to reduce or eliminate NEPA requirements for scientific analysis of grazing management and of its ecological impacts. On the contrary, we should be looking for ways to facilitate and expand scientific input into public land management. In recent years, there has been a dramatic increase in the understanding both of the impacts of livestock grazing and of potential management solutions. Federal agencies must be required to seek out and incorporate the latest and best information on grazing management and range ecology if they are to do the best possible job for the permittees and for the American people.

Regular NEPA review at the time of permit renewal provides an opportunity for livestock operators, the public and agency staff to evaluate past management, to make corrections and to incorporate new information. Moreover, periodic NEPA review provides a useful incentive for monitoring the environmental impacts of grazing management on the wide array of public land resources. GAO studies (1992: 1991) and the recent National Research Council report highlights the value of science-based, ecological monitoring of federal rangelands (National Research Council, 1994). Elimination of NEPA review for local grazing management will essentially remove the BLM grazing program from meaningful scientific scrutiny.

In addition to limiting NEPA analysis, the Act would restrict the types of scientific information that can be used by federal managers to support changes in management. Section 114 (b) specifies that stocking rate changes must be "supported by rangeland studies", or must be necessary to maintain or improve rangeland productivity [for forage production]. Rangeland studies are specifically defined as addressing only use, utilization, climate, special events, production trend, and rangeland condition and trend. This definition appears to limit the environmental damage that can be considered under the Act to damage to forage production. Managers would not be able to alter management based on the condition of any other resource. However, as discussed above, grazing management impacts soils, fisheries, water quality, wildlife habitat, recreational opportunities and many other resources and values. How are these impacts to be evaluated or mitigated under H.R. 1713?

Rangeland studies are further restricted to exclude methods relying on "cursory visual scanning of land". Some grazing impacts such as streambank erosion, soil disturbance, or excessive forage use can be estimated quite accurately by

"visual scanning of the land", including by the use of photographs, particularly when combined with occasional objective measurements to calibrate visual observations. Such methods are in wide use in California today and are endorsed by the land management agencies and by the University of California. Managers must be free to conduct any type of scientifically sound study that is necessary to determine the best use and management of public lands.

We understand that the current Senate version of this Act prohibits the use of any monitoring data that was not collected in the presence of the permittee. If enacted, this provision would even further curtail the ability of agency staff to monitor or evaluate impacts of grazing. Again, the land management agencies must not be arbitrarily prevented from performing any studies or from using any data that are scientifically sound in order to manage the public lands for the multiple uses that are mandated by law.

The 15 year interval for permit renewal specified in Section 132 would further reduce the opportunities for regular scientific and public review of grazing management. Moreover, no peer review or other tests of scientific adequacy are set for regional or State standards and guidelines. As noted above, Congress should be seeking ways to encourage involvement of the scientific community in all levels of grazing management in order to ensure that the latest and best information is used to manage the public lands.

## 2. Restrictions on public input

Several provisions of the Act restrict public participation in grazing management. Among the most important are the elimination of the public's right to participate in AMP development and the elimination of NEPA analysis of AMPs. As noted above, BLM Resource Area Plans and Plan-level NEPA analyses have been developed based on the assumption that grazing NEPA analysis will be performed at the allotment level. The public has reviewed Plans and Environmental Impact Statements on this basis. Elimination of public input and NEPA analysis for allotment level grazing decisions would essentially circumvent a legal commitment that was made to the public by the BLM.

There is no justification for restriction of NEPA review of grazing. NEPA is an excellent example of a law that represents the best of the American democratic system. Public lands are just that - lands owned by the public, by taxpayers. NEPA gives local communities, and the public at large, the right to participate in important decisions about the management of their federal public lands and the expenditure of their tax dollars. NEPA is a contract between the federal government and the American people. In that contract, the federal government makes three commonsense commitments to the public they serve:

- Federal agencies will endeavor to accurately determine, based on the best available information, what the environmental and socioeconomic impacts of their activities will be.

- Federal agencies will publicly disclose both their planned activities and their probable impacts.
- Federal agencies will consider public input on the activities and their impacts when finalizing planning decisions.

These promises are not radical or extreme. Federal agencies are funded by tax dollars. The environment, quality of life, and the local economies that taxpayers depend on are affected by the activities of agencies like the BLM and the Forest Service. It is the public's right, in our democracy, to fully participate in the management of publicly-owned lands. We understand that the paperwork associated with NEPA analysis can be time-consuming, but democracy carries with it certain obligations, some of which are occasionally inconvenient. That does not mean that we should ignore those obligations.

In addition to elimination of NEPA for AMPs, the Act dictates that the majority of the makeup of the Grazing Advisory Committees be livestock operators, essentially excluding other interest groups from meaningful input into important management processes such as AMP development and expenditure of range improvement funds. Finally, the Act mandates no public input into the development of State or regional standards and guidelines. The Senate version of the Act reduces public participation even further by eliminating even the limited opportunities for participation as an affected interest.

### 3. No incentives for stewardship

Livestock operators and federal range managers must be able to implement ecologically conservative management techniques and to restrict use of federal forage when necessary to protect resources. We believe that, rather than encouraging improved management, several provisions of the Act actually would discourage good stewardship of public rangelands.

For example, Sections 136 (a) and (b) of the Act prohibit the BLM from placing any terms and conditions in grazing permits other than number of animal unit months of forage to be used, stocking rate, and period of use for the allotment. This prevents range staff from setting or enforcing even the most basic environmental standards for grazing management. Grazing permits are the enforceable contract between the permittee and the agency and it is in these contracts that all management requirements are specified. Terms and conditions in permits currently include requirements such as the permitted level of forage utilization and directions for livestock distribution. The ability of federal agencies to set these types of simple, essential management standards would be eliminated under H.R. 1713.

Management of stocking rate is one of the most powerful tools managers can use to protect rangeland resources (Holecheck, 1995). Several provisions of the Act seriously curtail the ability of the BLM to manage stocking rates. Section 107 of the Act may be interpreted as a perpetual freeze on stocking at the levels

permitted on August 1, 1993. Section 104 (a)(23) of the Act sets permanent damage to vegetation or resources as the standard determining the allowable carrying capacity of an allotment. Setting permanent damage as the standard increases the burden of proof required for the BLM to set stocking rates to protect or restore resources. As discussed above, Section 104 (a)(26) of the Act would restrict the types of scientific data that can be used to support stocking rate changes to those relating to forage production. Section 114 (d)(2) of the Act also requires that the BLM evaluate and implement "all reasonable and viable management practices or alternatives" before reducing stocking rates. Temporary stocking reductions are only allowed in order to facilitate recovery from extraordinary natural events or to assist in work on range improvements. Finally, in the event that the Act's stringent criteria for demonstrating a need to reduce stocking levels are met, Section 114 (e) requires a 5 year phase-in. These requirements, taken in sum, essentially eliminate the practical ability of the agency to manage stocking to protect fisheries, recreation opportunities, water quality, wildlife or any resource other than forage productivity.

The Act also restricts the management options of livestock operators. In contrast to the Rangeland Reform '94 proposals (U.S.D.I. Bureau of Land Management and U.S.D.A. Forest Service, 1994), the Act has no provision for voluntary conservation nonuse of forage by livestock operators. In fact, nonuse for more than two seasons is prohibited under Section 141 (b)(1). This feature of the Act would prohibit livestock operators from voluntarily resting allotments in order to protect or restore rangeland resources, even if they determine that rest is necessary for the health or productivity of the allotment.

Finally, Section 111 of the Act, which defines the qualifications necessary to hold a federal grazing permit, contains no mechanism to take into account past compliance with federal grazing permits when awarding new permits or renewing old ones. This precludes federal managers from preventing known "bad apples" from grazing on federal lands. Even permittees who have displayed complete disregard for obligations under past grazing contracts with the federal government and for federal environmental laws would be able to obtain new grazing permits under the proposed law.

#### 4. Publicly-owned lands should produce multiple uses and benefits for all Americans

The proposed Act would create a situation where other uses, values and benefits would be given less emphasis than grazing in the management of publicly-owned lands. Managers would be discouraged or even precluded from changing grazing management to enhance water quality, wildlife habitat quality, habitat for rare species, or opportunities for fishing, hunting or other recreation.

Rangeland Reform '94 (U.S.D.I. Bureau of Land Management and U.S.D.A. Forest Service, 1994; 1995) came about in part because environmental degradation, population changes in the Western US, and increasing environmental awareness have altered the social climate in which public lands

grazing takes place. Opinion polls (e.g. Brunson and Steel, 1994) show that the vast majority of Americans favor stronger protections for wildlife, rare and endangered species, water quality and biological diversity on public rangelands. One essential element in any reform package that seeks to respond to public opinion is the requirement that agencies manage rangelands to reduce conflicts with other resources and values.

Such conservative management creates economic opportunities as well. Several recent studies have found that livestock grazing is not the most fiscally responsible use of some public lands. Because grazing conflicts with fishing, hunting, hiking and other recreational activities, it reduces revenue from those sources. Economic analyses, looking at hunting alone, have found that reducing or eliminating livestock grazing can significantly increase economic returns from rangelands in some cases (Loomis, *et al.*, 1991).

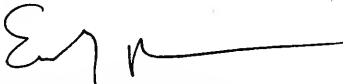
## Conclusions

The debate around livestock grazing is often seen as a struggle between two mutually exclusive views: those who favor unrestricted grazing vs. those who favor complete removal of livestock from public lands. This view is inaccurate. It is based in part on the false impression that livestock grazing is necessarily incompatible with all other resources and uses on all public lands. There are ways to graze livestock on some public lands while protecting other uses, values, and resources. The land management agencies, the scientific community, and the public should be working together to seek out and develop new techniques to manage public lands that are cost-effective and which promote the multiple uses for which the public lands were established. Congress must be working to encourage this process.

The Livestock Grazing Act of 1995 does not advance this process. In its current form, the Act would restrict public and scientific input into grazing management and it would discourage livestock operators and federal range managers from practicing conservative, multiple-use stewardship. H.R. 1713 would be a step backward at a time when federal grazing management is just beginning to move towards modern, sustainable management. We strongly urge Congress not to pass this bill.

Thank you for your attention to these issues and concerns.

Sincerely,



Emily B. Roberson, Ph.D.  
Senior Land Management Analyst

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The Honorable Senator John McCain  
Senate Office Building  
Washington, D. C. 20510

June 29, 1995

Re. Senate Bill 852, Livestock Grazing Act

Dear Senator McCain:

I am writing to you to express my dismay at Senate Bill 852 which would give ranching leasees greater control over Bureau of Land Management lands.

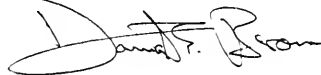
My 27 years as a wildlife biologist for the Arizona Game and Fish Department and five years as an Adjunct Professor of Zoology at Arizona State University have convinced me that what is needed is more federal control of our public lands, not less. Excessive livestock numbers remain the most serious problem facing wildlife in the arid West. Such gamebirds as prairie chickens, sharp-tailed grouse, sagehens, and Montezuma quail continue to decline because of overgrazing. Livestock-borne diseases decimate bighorn sheep populations and cattle compete with deer and elk for scarce forage and water. Even nesting waterfowl have been shown to be negatively impacted by grazing.

Less dramatic, but perhaps even more consequential, lions and bears are continually being killed as predators of calves and yearlings because they are pastured in brushy allotments that should be grazed only by steers if grazed at all. Livestock fences also restrict pronghorn antelope movements. Most of our streams are in a less-than-desirable condition because of livestock trampling and cattle feeding on riparian vegetation, thus reducing the numbers of trout and songbirds alike.

Supporting stockmen comes at additional public costs -- dried-up springs, cattle polluted streams, countless miles of wire fence, and numerous erosion gullies. Given all of these detriments, the benefits of stock waters to wildlife are poor compensation indeed.

Nonetheless, it should not go unmentioned that grazing conditions have improved during the last 40 years, although imperceptibly. To curtail what little power the BLM has, and reverse this trend, would be a tragedy. Urban users of our public lands have been too patient for too long in their protracted wait for improved land management practices. A return to rancher-dominated management prescriptions will only result in an increasing demand to have these leasees of the federal lands removed from what many view as the public dole.

Sincerely,



Thomas L. Fleischner  
HC 30 Box 769  
Prescott, Arizona 86301  
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3 July 1995

Honorable Larry Craig  
Chairman, Subcommittee on Forests and Public Land Management  
Committee on Energy and Natural Resources  
U.S. Senate  
Washington, D.C. 20510

Re: Senate Bill 852, Livestock Grazing Act

Dear Chairman Craig,

I am writing to you because, as a scientist, I am greatly alarmed at the intention of Senate Bill 852, the "Livestock Grazing Act," which is being considered by the Subcommittee on Forests and Public Land Management.

My concern is grounded in considerable scientific study of the ecology and management of livestock grazing. In addition to publishing information on grazing ecology and management in peer-reviewed journals and a scientific encyclopedia, I served as the Chair of the Public Lands Grazing Committee of the Society for Conservation Biology, an international scientific society, and was lead author of its Position Statement on grazing. I am a Professor of Environmental Studies at Prescott College (for identification purposes).

My enclosed article, "Ecological costs of livestock grazing in western North America," summarizes almost two hundred scientific studies. When taken as a whole, it becomes clear that the ecological costs of livestock grazing have been *underestimated* in the past. In fact, livestock grazing has negative effects on all major components of ecosystems: their *composition* (which species live there), *structure* (their physical form), and *functioning* (their basic processes, such as cycling of essential nutrients). Because livestock grazing is the most widespread land management practice in the western United States, this is cause for great alarm.

To quote from my article: "By virtually any measure, livestock grazing has serious ecological costs

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in western North America. To reiterate, grazing has reduced densities and biomass of many plant and animal species, reduced biodiversity, aided the spread of exotic species, interrupted ecological succession, impeded the cycling of the most important limiting nutrient (nitrogen), changed habitat structure, disturbed community organization, and has been the most severe impact on one of the biologically richest habitats in the region. While undoubtedly there are exceptions to this theme of destruction, clearly much of the ecological integrity of a variety of North American habitats is at risk from this land management practice."

**In short, any claim that livestock grazing is a harmless practice, in need of reduced management or oversight, is absolutely without scientific foundation.**

Two years ago I was asked to chair a scientific committee on public lands grazing for the Society for Conservation Biology; our charge was to study the scientific issues carefully, and make a policy recommendation based on science. It was a great honor to serve on that committee, which represented over one hundred years of experience with the scientific management of grazing. One member was a fifth generation rancher, another was the former Principal Rangeland Ecologist for the U.S. Forest Service; all five members had great expertise in this subject. You will see that the proposed bill runs strongly counter to the policy recommendations thoughtfully proposed by this team of scientific experts, whose conclusion was that grazing has had, and continues to have, enormous negative impacts, and is in need of stronger management--not less management.

I urge you to resist this bill, which will serve only very brief economic self-interest of a minority of ranchers, but which will undermine any sustainable ranching potential for

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generations. This bill works against the grain of both ecological and economic wisdom.

I have enclosed a copy of my summary article, "Ecological costs of livestock grazing in western North America," and the "Society for Conservation Biology Position Statement: Livestock Grazing on Public Lands in the United States of America." I would be happy to respond to any questions you may have.

Sincerely,



Thomas L. Fleischer, M.S.

Professor of Environmental Studies, Prescott College  
Chair, Public Lands Grazing Committee, Society for Conservation Biology (1993-94)

Enclosures

cc: Senator Jon Kyl  
Senator John McCain

## Ecological Costs of Livestock Grazing in Western North America

THOMAS L. FLEISCHNER

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**Abstract:** Livestock grazing is the most widespread land management practice in western North America. Seventy percent of the western United States is grazed, including wilderness areas, wildlife refuges, national forests, and even some national parks. The ecological costs of this nearly ubiquitous form of land use can be dramatic. Examples of such costs include loss of biodiversity; lowering of population densities for a wide variety of taxa; disruption of ecosystem functions, including nutrient cycling and succession; change in community organization; and change in the physical characteristics of both terrestrial and aquatic habitats. Because livestock congregate in riparian ecosystems, which are among the biologically richest habitats in arid and semiarid regions, the ecological costs of grazing are magnified in these sites. Range science has traditionally been laden with economic assumptions favoring resource use. Conservation biologists are encouraged to contribute to the ongoing social and scientific dialogue on grazing issues.

Costos ecológicos del pastoreo de ganado en el oeste de Estados Unidos

**Resumen:** El pastoreo de ganado es la práctica de manejo de la tierra más ampliamente utilizada en el oeste de Norte América. El setenta por ciento del oeste de Estados Unidos se utiliza para pastoreo, incluyendo áreas silvestres, refugios de vida silvestre, bosques nacionales e inclusive algunos parques nacionales. El costo ecológico de esta forma ubicua de uso de la tierra puede ser dramático. Ejemplos de este costo incluyen pérdida de la biodiversidad; decrecimiento de las densidades de población para una amplia variedad de taxones; alteraciones en las funciones del ecosistema, incluyendo ciclos de nutrientes y sucesiones; cambios en la organización de la comunidad y cambios en las características físicas de hábitats terrestres y acuáticos. Dado que el ganado se congrega en ecosistemas ribereños, los cuales están entre los hábitats biológicamente más ricos dentro de las regiones áridas y semi-áridas, los costos ecológicos del pastoreo se magnifican en estos sitios. Tradicionalmente, la ciencia de pastizales, ha estado cargada de suposiciones económicas que favorecen el uso del recurso. Se alienta a los biólogos conservacionistas a contribuir al diálogo social y científico en los problemas del pastoreo.

### Introduction

Aldo Leopold (1953) once said that to be an ecologist is to live "alone in a world of wounds." The spectacular groundswell of interest in conservation biology is heart-

ening evidence that we no longer work alone. But what about a world of wounds? The wounding of natural processes accelerates, but some wounds are more conspicuous than others. Recognizing a clearcut forest is easy, but it often takes a trained eye to comprehend damage to rangelands. The destruction caused by livestock grazing is so pervasive and has existed for so long that it frequently goes unnoticed. Livestock grazing has re-

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ceived far less attention from conservation biologists than its widespread influence would suggest is appropriate. When I recently surveyed the first six volumes of this journal, for example, I found almost three times as many articles on deforestation as on grazing-related topics.

Livestock grazing is the most widespread influence on native ecosystems of western North America (Wagner 1978; Crumpacker 1984). Grazing by livestock, primarily cattle, is nearly ubiquitous throughout this region. Approximately 70% of the 11 western states of the United States (Montana, Wyoming, Colorado, New Mexico, and westward) is grazed by livestock (Council for Agricultural Science and Technology 1974; Longhurst et al. 1984; Crumpacker 1984), including a broad diversity of ecosystem types and virtually all types of land management designations. Grazing occurs in creosotebush deserts, blackbrush deserts, slickrock mesas, sagebrush flats, pinyon-juniper woodlands, chaparral, ponderosa pine forests, and alpine meadows above timberline.

Grazing occurs on the majority of federal lands in the West, including most of the domains of the U.S. Bureau of Land Management (BLM) and the U.S. Forest Service, as well as in many national wildlife refuges, federal wilderness areas, and even some national parks. In 16 western states, approximately 165 million acres of BLM land and 103 million acres of Forest Service land are grazed by 7 million head of livestock, primarily cattle (U.S. General Accounting Office 1988a). Of the BLM lands in these states, 94% is grazed. Of federal wilderness areas, 35% have active livestock grazing allotments (Reed et al. 1989; this figure is from a nationwide survey—the percentage for the West is probably higher). Urbanized areas, some dense coniferous forests, and a few rock-and-ice peaks are about all that is free from the influence of livestock. Given the ubiquity of livestock, it behooves us to understand the consequences of its presence on the Western landscape.

Understanding the influence of domestic livestock upon native ecosystems is a problematic process. Ascertaining the potential natural vegetation of most Western ecosystems is difficult because ungrazed land is extremely rare. Ecologists have gained insight into the effects of grazing primarily in three ways: (1) Historic records provide perspective on the dramatic changes that have transpired since the introduction of livestock to the West (see Cooper 1960). As Hastings (1959) pointed out, however, one must be cautious in interpreting historical records, due to the subjectivity of different observers. Historic photographs have also been used in an attempt to recreate an ecological baseline (see Hastings & Turner 1965); Bahre (1991) reviewed the necessary cautions in interpreting historic photographs. (2) Areas excluded from grazing through serendipity, such as isolated mesa tops, provide startling contrast to adjacent areas that have been continuously

grazed (see Rummell 1951). (3) Areas that intentionally exclude livestock (exclosures) provide a before-grazing and after-grazing comparison. Exclosures can be monitored as they recover from the effects of grazing and can be compared with adjacent grazed sites. Almost all exclosures share two characteristics: (1) their areas are usually quite small (Bock et al. 1993a), often less than 50 ha; and (2) they have been grazed prior to enclosure. In other words, very few studies of truly ungrazed landscapes exist. Most recreational impact studies concur that the original impact upon a pristine site is the most severe (Cole 1981; Cole & Marion 1986); thus, enclosure studies probably underestimate the true extent of grazing effects because they cannot monitor the most drastic damage, which occurred long ago. In addition, virtually all enclosure studies examine areas too small to encompass landscape-level diversity. In summary, we lack a clear ecological benchmark for determining the effects of grazing.

Attempts to discern grazing effects are also hampered by the difficulty in distinguishing between different range management practices. Management variables include grazing intensity ("stocking rate"), livestock species, seasonality of grazing, and degree of active management, such as movement of livestock between pastures. Unfortunately, the management history of many sites is unknown. Many studies do not describe grazing intensity (see, for example, Glinski 1977; Reynolds & Trost 1980; Crouch 1982). Furthermore, standardized terminology is lacking for different grazing intensities. Relative terms, such as "heavy," "moderate," and "light" grazing, may be undefined (see Jeffries & Klopatek 1987) or qualitatively defined in very different ways. Among the criteria used are presence of livestock, presence of trails, range condition (see Jones 1981), and amount of herbage remaining after a grazing season (see Welch et al. 1991). Studies that have quantified grazing intensity have done so inconsistently. For example, two studies (Mosconi & Hutto 1982; Baker & Guthery 1990) analyzing the effect of "heavy" grazing differed in their definition by a factor of seven. The much-used term "overgrazing" is wrought with controversy and lack of clarity; even specific discussions of overgrazing fail to define it (see Menke & Bradford 1992). This rudimentary state of knowledge interferes with analysis of the role of different grazing practices on biodiversity.

Available evidence indicates that livestock grazing has profound ecological costs. Autecological, synecological, and geomorphological studies have confirmed that native ecosystems pay a steep price for the presence of livestock. Three primary attributes of ecosystems have been elucidated: composition, function, and structure (Franklin et al. 1981). Livestock grazing has a profound impact on all three. The ecological costs of livestock grazing can be summarized as follows:

- (1) *Alteration of species composition of communities*, including decreases in density and biomass of individual species, reduction of species richness, and changing community organization.
- (2) *Disruption of ecosystem functioning*, including interference in nutrient cycling and ecological succession.
- (3) *Alteration of ecosystem structure*, including changing vegetation stratification, contributing to soil erosion, and decreasing availability of water to biotic communities.

### Alteration of Species Composition of Communities

That the introduction of a large-bodied herbivore should have dramatic effects on the species composition of plant communities in arid and semiarid regions should not be surprising. Congressional investigation into rangeland conditions on BLM and Forest Service lands showed that over 50% of public rangelands administered by these two agencies were in "poor" or "fair" condition, meaning that less than half the range was 50% similar to the presumed climax community (U.S. General Accounting Office 1988a, 1991a). Grazing affects the species composition of plant communities in essentially two ways: (1) active selection by herbivores for or against a specific plant taxon, and (2) differential vulnerability of plant taxa to grazing (Szaro 1989). Decreases in density of native plant species and diversity of native plant communities as a result of live-

stock grazing activity have been observed in a wide variety of western ecosystems (Table 1).

Grazing also can exert a great impact on animal populations, usually due to indirect effects on habitat structure and prey availability (Wagner 1978; Jones 1981; Mosconi & Hutto 1982; Szaro et al. 1985; Quinn & Walgenbach 1990). The deleterious effects of grazing have been observed in all vertebrate classes (Table 2). The response of native wildlife to grazing varies by habitat. Bock et al. (1993b) reviewed the effect of grazing on Neotropical migratory landbirds in three ecosystem types and found an increasingly negative effect on abundances of bird species in grassland, riparian woodland, and intermountain shrubsteppe (almost equal numbers of species with positive and negative responses to grazing in grassland; six times as many with negative as positive responses in shrubsteppe). Due to their mobility and visual orientation, birds may be better able to cope with grazed landscapes than mammals are (Bock et al. 1984). Platts (1979, 1981) reviewed the interaction of biological and geomorphological factors that degrade fish habitat.

The relationship of grazing to insect populations is unclear (Table 3). Studies of grasshoppers (Acrididae) on rangelands have yielded contradictory results: some report an increase in grasshopper densities on heavily grazed lands, and others report a decrease (summarized in Welch et al. 1991). Recent research has clarified that duration of grazing, seasonal differences in plant and insect communities, and plant community architecture

Table 1. Deleterious effects of livestock grazing on plant communities in western North America.

Habitat	Location	Effect	Authority
Sonoran Desertscrub	Arizona	Perennial grasses and <i>Krameria</i> (palatable shrub) showed dramatic density decreases with grazing	Blydenstein et al. (1957)
Mojave Desertscrub	California	60% reduction in above-ground biomass of annuals, 16–29% decrease in cover of perennial shrubs with grazing	Webb & Stielstra (1979)
Sagebrush Desert	Idaho	Grazed site had 1/3 species richness of ungrazed site	Reynolds & Trost (1980)
Desert Grassland	New Mexico	Grass density increased by 110% after 30 years of protection from grazing	Gardner (1950)
Semidesert Grassland	Arizona	Species richness increased, as did canopy cover for midgrass, shortgrass, shrub, and forb groups, after removal of livestock	Brady et al. (1989)
Semidesert Grassland	Arizona	Woody plants significantly more abundant after removal of livestock	Bock et al. (1984)
Ponderosa Pine Forest	Washington	Decreased species richness on grazed sites	Rummell (1951)
Mountain Canyon	Utah	Absence or near absence of 10 grass species on grazed sites	Cortam & Evans (1945)
Riparian	Oregon	Species richness increased from 17 to 45 species nine years after removal of livestock	Winegar (1977)
Riparian	Arizona	Herbaceous cover of grazed plot less than half that of ungrazed plot	Szaro & Pase (1983)
Riparian	Colorado	Shrub canopy coverage increased 5.5 times, willow canopy coverage 8 times after removal of livestock	Schulz & Leininger (1990)

Table 2. Deleterious effects of livestock grazing on vertebrate animals in western North America.

Organism(s)	Location	Effect	Authority
Small Mammals	Idaho	Density and diversity reduced on grazed sites	Reynolds & Trost (1980)
Small Mammals	Nevada	Density over one-third lower, diversity almost half on grazed sites	Medin & Clary (1989)
Songbirds, Raptors, and Small Mammals	Utah	350% increase in use and diversity after 8 years rest from grazing	Duff (1979)
Ducks and all Terrestrial Nongame Birds	Colorado	All more abundant in ungrazed habitat	Crouch (1982)
Upland Sandpiper ( <i>Bartramia longicauda</i> )	North Dakota	Nest density reduced on grazed sites	Bowen & Kruse (1993)
Riparian Birds	Montana	Species composition altered by grazing; densities of 1/3 of species differed significantly between heavily and lightly grazed sites—1/3 of these were higher on lightly grazed sites	Mosconi & Hutto (1982)
Riparian Passerines	Southeastern Oregon	Species richness decreased on grazed sites	Taylor (1986)
Willow Flycatcher ( <i>Empidonax traillii</i> )	Southeastern Oregon	Abundance increased from 0 to 30 when grazing intensity reduced by 4 times	Taylor & Littlefield (1986)
Yellow Warbler ( <i>Dendroica petechia</i> )	Southeastern Oregon	Abundance increased by 8 times when grazing intensity reduced by 4 times	Taylor & Littlefield (1986)
Dickcissel ( <i>Spiza americana</i> ) and Bell's Vireo ( <i>Vireo bellii</i> )	Oklahoma	Populations 50% lower on grazed sites	Overmire (1963)
Lizards	California	Abundance 2 times and biomass 3.7 times higher on ungrazed site	Busack & Bury (1974)
Lizards	Arizona	Abundance and diversity higher on ungrazed site in 4 of 5 vegetation types	Jones (1981, 1988)
Wandering Garter Snake ( <i>Thamnophis elegans vagrans</i> )	New Mexico	5 times more abundant in ungrazed sites	Szaro et al. (1985)
Desert Tortoise ( <i>Gopherus agassizii</i> )	Western U.S.A.	Livestock trample young tortoises, damage burrows and shrubs used for shelter, and remove critical forage	Berry (1978); Campbell (1988)
Trout (Salmonidae)	Great Basin	Average increase in production of 184% when grazing reduced or eliminated	Bowers et al. (1979)
Trout (Salmonidae)	Idaho	More abundant, larger fish after removal of livestock	Keller & Burnham (1982)
Trout (Salmonidae)	Colorado	Standing crop doubled after removal of livestock	Stuber (1985)

are important factors in determining the effect of grazing on grasshopper populations.

Grazing-induced changes in particular species translate into major conversions of community organization. Grazing is credited with transforming southern New

Mexico from grassland to creosotebush (*Larrea*) desert (Whitfield & Anderson 1938; York & Dick-Peddie 1969). Kennedy (1977) noted that grazing thoroughly changed the primary plant species in most Southwest riparian zones. He referred to these changes as "com-

Table 3. Effects of livestock grazing on insects.

Location	Effect	Authority
Arizona	Grasshopper density 3.7 times greater on protected site in summer, 3.8 times greater on grazed site in fall (different subfamilies, with different food preferences dominant in each season)	Jepson-Innes & Bock (1989)
Australia	Ant abundance increased as sheep density increased; all other groups reduced substantially at highest livestock density	Hutchinson & King (1980)
Colorado	Grasshoppers significantly more abundant on a lightly grazed site than on a heavily grazed site; because there was no difference between the same sites 19 years earlier, a long-term effect of grazing is indicated	Welch et al. (1991)
Oklahoma	Decreases in abundance of most insect groups, dramatic increase in grasshoppers	Smith (1940)
South Dakota	Plant community architecture changed from midgrass/tallgrass to shortgrass, which changed grasshopper species composition	Quinn & Walgenbach (1990)



plete type conversions." Grazing can eliminate a willow stand within 30 years (Kovalchik & Elmore 1992). In Oregon, grazing delayed plant phenology two weeks (Kauffman et al. 1983b); such changes could have dramatic effects on communities of pollinators and dispersers. Grazing has also been observed to alter animal foraging guilds (Table 4).

Grazing destabilizes plant communities by aiding the spread and establishment of exotic species, such as tamarisk (*Tamarix*) (Ohmart & Anderson 1982; Hobbs & Huenneke 1992). Livestock help spread exotic plant species by (1) dispersing seeds in fur and dung; (2) opening up habitat for weedy species, such as cheatgrass (*Bromus tectorum*; Gould 1951; Mack 1981), which thrive in disturbed areas; and (3) reducing competition from native species by eating them. As D'Antonio and Vitousek (1992) pointed out, alien grass invasions in North America have been most severe in the arid and semiarid West, where invasion by many species (including *Bromus tectorum*, *B. rubens*, *B. mollis*, *B. diandrus*, *Taeniatherum asperum*, and *Avena* spp.) was associated with grazing.

### Disruption of Ecosystem Functioning

The deleterious effects of livestock on native ecosystems are not limited to changes in species composition. Grazing also disrupts the fundamental ecosystem functions of nutrient cycling and succession.

An often overlooked characteristic of arid and semi-arid ecosystems is the presence of microbiotic (or cryptogamic) soil crusts, delicate symbioses of cyanobacteria, lichens, and mosses from a variety of taxa. The essential role of these microbiotic crusts in nutrient cycling of arid ecosystems has been increasingly appreciated. Crusts perform the major share of nitrogen fixation in desert ecosystems (Rychert et al. 1978). The availability of nitrogen in the soil is a primary limiting factor on biomass production in deserts. In the Great Basin Desert, at least, it is second in importance only to the lack of moisture (James & Jurinak 1978). Microbiotic crusts in arid ecosystems have been correlated with increased organic matter and available phosphorus

(Kleiner & Harper 1977), increased soil stability (Kleiner & Harper 1972; Rychert et al. 1978), and increased soil water infiltration (Loope & Gifford 1972; Rychert et al. 1978). Crusts also play an important role in ecological succession because they provide favorable sites for the germination of vascular plants (St. Clair et al. 1984).

Given the fragile nature of microbiotic crusts, it follows that they are easily damaged by livestock grazing. In numerous studies, grazing has been correlated with the loss of microbiotic cover (Wullstein 1973; Johansen et al. 1981; Anderson et al. 1982; Jeffries & Klopatek 1987). Crusts can be severely disrupted even while they (Belnap 1993) and the more conspicuous vascular plant communities (Kleiner & Harper 1972; Cole 1990) appear healthy. Microbiotic species richness has also been shown to decrease under grazing pressure (Anderson et al. 1982). Recent studies on the Colorado Plateau have dramatically demonstrated that soil surface disturbances can virtually stop nitrogen fixation. Nitrogenase activity was reduced 80–100% in the microbiotic crust under a single human footprint, as well as under vehicle tracks (Belnap, personal communication; Belnap 1994; Belnap et al. 1994), and nitrogen content in the leaves of dominant plant species was lower in trampled than untrampled areas (Belnap, personal communication; Harper & Pendleton 1993). If a single footprint can bring a local nitrogen cycle almost to a halt, the impact of a century's work of livestock hoofprints can easily be imagined.

Grazing also can disrupt ecological succession. The cumulative impact of long-term livestock use has produced and maintained early seral vegetation throughout much of the West (Longhurst et al. 1982). Glinski (1977) demonstrated that cattle grazing of small seedlings prevented cottonwood (*Populus fremontii*) regeneration in a southern Arizona riparian zone. He concluded that long-term grazing could eliminate or reduce the upper canopy by preventing the establishment of saplings. Carothers et al. (1974) noted the lack of cottonwood regeneration in grazed areas along the Verde River, Arizona. Prevention of seedling establishment due to grazing and trampling by livestock has transformed a variety of Southwest riparian systems into even-aged,

Table 4. Effects of livestock grazing on animal foraging guilds in western North America.

Organisms	Location	Effect	Authority
Riparian Birds	Montana	Flycatching guild, ground-foraging thrush guild and foliage-gleaning insectivore guild affected; bark-foraging guild unaffected	Mosconi & Hutto (1982)
Riparian Birds	Oregon	Grazed sites preferred by insectivores, ungrazed sites by herbivores and granivores	Kauffman et al. (1982)
Lizards	Arizona	More sit-and-wait lizards on grazed sites; open-space foragers and wide-ranging foragers decreased on grazed sites	Jones (1981)
Grasshoppers	South Dakota	Obligate grass-feeders dominated on grazed sites, mixed-forb-and-grass-feeders on ungrazed sites	Quinn & Walgenbach (1990)

nonreproducing vegetative communities (Carothers 1977; Szaro 1989). In Oregon, grazing retarded succession in the willow-black cottonwood (*Salix-Populus trichocarpa*) community, and there was little if any regeneration of alders (*Alnus*) or cottonwoods (Kauffman et al. 1983b). Davis (1977) concluded that livestock grazing was "probably the major factor contributing to the failure of riparian communities to propagate themselves."

Ascertaining patterns of ecological succession in xeric rangelands is not easy; thus, the effect of livestock on successional processes is unclear. Traditionally, range management was based upon Clements' (1916) classic model of ecological succession, where seral stages lead to a stable climax. Early on, this concept of predictable, directional succession was applied to range ecosystems (Sampson 1919). This "range succession model" eventually formed the basis of range condition classification, as exemplified by government manuals and early range management textbooks (Stoddard & Smith 1943), and summarized in an extensive review by Ellison (1960). In the arid West, however, vegetation change due to grazing has not followed the prediction of this linear model. Recent evidence suggests that range ecosystems have not evolved as well-balanced communities with stable species compositions (Johnson & Mayeux 1992).

More recently, a less Clementsian view of xeric rangeland succession, referred to as the "state-and-transition model," has been proposed (Westoby et al. 1989). According to this model, relatively stable, discrete vegetation states go through transitions induced by natural episodic events such as fire or by management actions such as grazing (Laycock 1991). As Friedel (1991), Laycock (1991), and others have discussed, transitions between states sometimes cross successional "thresholds." Once certain thresholds have been crossed, as in severe soil erosion, succession may not be reversible except by strong, active management. Although this model is in its infancy, it may someday provide a means to predict if grazing can cause long-term degradation by inducing irreversible succession across thresholds.

### Alteration of Ecosystem Structure

The physical structure of ecosystems, including vegetation stratification, is often changed by livestock grazing. In central Washington, grazing was responsible for changing the physical structure of ponderosa pine forest from an open, park-like tree overstory with dense grass cover to a community characterized by dense pine reproduction and lack of grasses (Rummell 1951). Grazing was at least partially responsible for similar structural changes in ponderosa pine forests of northern Arizona (Cooper 1960). Historic records indicate that extensive willow stands once occurred throughout the

rangelands of the Intermountain West, which are now almost completely absent (Kovalchik & Elmore 1992). Grazing structurally changed habitat for the wandering garter snake (*Thamnophis elegans vagrans*) through the loss of small trees and shrubs (Szaro et al. 1985). In central Arizona, lizard habitat was changed when livestock reduced low-height vegetation by totally consuming perennial grasses and severely reducing palatable shrubs (Jones 1981). In Oregon, Taylor (1986) noted that lower vegetative strata were affected by grazing. In blackbrush (*Coleogyne ramosissima*) desert habitat, ungrazed sites had significantly more shrub and herbaceous cover (Jeffries & Klopatek 1987). In a high-altitude willow riparian community in Colorado, grazing influenced the spacing of plants and the width of the riparian zone (Knopf & Cannon 1982).

Grazing removes soil litter, which can have both physical and biological effects. Schulz and Leininger (1990) observed twice as much litter in an enclosure as in surrounding grazed habitat. In Oregon, removal of soil litter was thought to be the cause of delayed plant phenology (Kauffman et al. 1983b), which in turn could affect communities of animal pollinators.

Researchers have long recognized that grazing contributes to the deterioration of soil stability and porosity and increases erosion and soil compaction. Seventy years ago, Aldo Leopold (1924) declared that "grazing is the prime factor in destroying watershed values" in Arizona. Grazing reduces the roughness coefficient of watersheds, resulting in more surface runoff, more soil erosion, and massive flooding (Ohmart & Anderson 1982). Grazing in the upper Rio Grande changed plant cover, thus increasing flash floods and, consequently, erosion (Cooperrider & Hendricks 1937). As grazing-induced gullying lowered the stream channel along an Oregon stream, associated plant communities changed from wet meadow to the more xeric sagebrush-rabbitbrush (*Chrysothamnus*) type (Winegar 1977). Davis (1977) concluded that removal of upland vegetation by livestock was a major factor in the increase in devastating floods. Numerous authors have noted extreme erosion and gullying when comparing heavily grazed to ungrazed sites (see Cottam & Evans 1945; Gardner 1950; Kauffman et al. 1983a). Ellison (1960) concluded that "as a result of some degree of denudation, accelerated soil erosion is inseparably linked with overgrazing on arid lands the world over."

Grazing has also repeatedly been shown to increase soil compaction and thus decrease water infiltration (Allderfer & Robinson 1949; Orr 1960; Rauzi & Hanson 1966; Bryant et al. 1972; Rauzi & Smith 1973; Kauffman & Krueger 1984; Abdel-Magid et al. 1987; Ordoño et al. 1990). In arid and semiarid lands where water is the primary ecological limiting factor, major losses of water from ecosystems can lead to severe desertification. Some controversy exists as to whether livestock grazing

was the *cause* of increased flooding and erosion or whether the synchrony of increased channel trenching and the introduction of vast livestock herds during the last century was coincidental. Episodes of channel trenching certainly occurred prior to the introduction of livestock (Bryan 1925; Karlstrom & Karlstrom 1987). Most reviewers, however, conclude that, at the least, livestock have been a contributing factor to the trenching of stream channels in the Southwest (Bryan 1925; Leopold 1951; Hereford & Webb 1992; Betancourt 1992). This interaction of climatic, geomorphic, and biological factors has been summarized as a "trigger-pull": long-term climatic trends were already underway when cattle arrived to serve "as the trigger-pull that set off an already loaded weapon" (Hastings 1959).

### Costs of Grazing Magnified: Riparian Habitats in the Arid West

Livestock, like humans, are adapted to mesic habitats, and they select riparian areas for the same reasons we do: shade, cooler temperatures, and water. In addition, riparian areas offer an abundance of food. Many observers have noted that cattle spend a disproportionate amount of their time in riparian zones (Ames 1977; Kennedy 1977; Thomas et al. 1979; Roath & Krueger 1982; Van Vuren 1982; Gillen et al. 1984). That livestock actively select riparian habitats, however, is a cause for ecological concern because these habitats are among the biologically richest in many arid and semi-arid regions and are easily damaged. Because livestock spend much of their time in riparian communities, and because the ecological stakes are highest here, many of the adverse impacts of grazing are magnified in these habitats.

Western riparian zones are the most productive habitats in North America (Johnson et al. 1977), providing essential wildlife habitat for breeding, wintering, and migration (Gaines 1977; Stevens et al. 1977; Brode & Bury 1984; Laymon 1984; Lowe 1985). Riparian habitats in the Southwest are home to the North American continent's highest density of breeding birds (Carothers et al. 1974; Carothers & Johnson 1975), rarest forest type, and more than 100 state and federally listed threatened and endangered species (Johnson 1989). Approximately three-quarters of the vertebrate species in Arizona and New Mexico depend on riparian habitat for at least a portion of their life cycles (Johnson et al. 1977; Johnson 1989). Even xeroriparian habitats—normally dry corridors that intermittently carry floodwaters through low deserts—support five to ten times the bird densities and species diversity of surrounding desert uplands (Johnson & Haight 1985).

Sadly, these biological treasures are in extreme danger. The Environmental Protection Agency concluded

that riparian conditions throughout the West are now the worst in American history (Chaney et al. 1990). Over 90% of Arizona's original riparian habitat is gone (Johnson 1989). Less than 5% of the riparian habitat in California's Central Valley remains; 85% of that is in disturbed or degraded condition (Franzreb 1987). The degradation of Western riparian habitats began with severe overgrazing in the late Nineteenth Century (Chaney et al. 1990), and grazing remains "the most insidious threat to the riparian habitat type today" (Carothers 1977). An extensive survey of Southwest riparian community types concluded that "livestock may be the major cause of excessive habitat disturbance in most western riparian communities" (Szaro 1989). The Oregon-Washington Interagency Wildlife Committee (1979), composed of biologists from several government agencies, concluded that grazing is the most important factor in degrading wildlife and fisheries habitat throughout the 11 western states. Likewise, ecologists in Montana suggested that livestock grazing is the major cause of habitat disturbance in most western riparian communities (Mosconi & Hutto 1982).

Livestock affect four general component of riparian systems: (1) streamside vegetation, (2) stream channel morphology, (3) shape and quality of the water column, and (4) structure of streambank soil (Platts 1979, 1981, 1983; Kauffman & Krueger 1984; Platts & Nelson 1989). As summarized by Platts (1981), "Grazing can affect the streamside environment by changing, reducing, or eliminating vegetation bordering the stream. Channel morphology can be changed by accrual of sediment, alteration of channel substrate, disruption of the relation of pools to riffles, and widening of the channel. The water column can be altered by increasing water temperature, nutrients, suspended sediment, bacterial populations, and in the timing and volume of streamflow. Livestock can trample streambanks, causing banks to slough off, creating false setback banks, and exposing banks to accelerated soil erosion."

Riparian vegetation is altered by livestock in several ways: (1) compaction of soil, which increases runoff and decreases water availability to plants; (2) herbage removal, which allows soil temperatures to rise, thereby increasing evaporation; (3) physical damage to vegetation by rubbing, trampling, and browsing; and (4) altering the growth form of plants by removing terminal buds and stimulating lateral branching (Kauffman & Krueger 1984; Szaro 1989). Livestock grazing is one of the principal factors contributing to the decline of native trout in the West. Cattle activities especially deleterious to fish are the removal of vegetative cover and the trampling of over-hanging streambanks (Behnke & Zarn 1976). Livestock have been shown to decrease water quality of streams (Diesch 1970; Buckhouse & Gifford 1976). Changes in water chemistry (Jeffries & Klopatek 1987) and temperature (Van Velson 1979), in

effect, create an entirely new aquatic ecosystem (Kennedy 1977; Kauffman & Krueger 1984). Insights such as these led the American Fisheries Society to issue a formal position statement calling for an overhaul of riparian zone management (Armour et al. 1991).

### Historical and Management Considerations

By virtually any measure, livestock grazing has serious ecological costs in western North America. Grazing has reduced the density and biomass of many plant and animal species; reduced biodiversity, aided the spread of exotic species, interrupted ecological succession, impeded the cycling of the most important limiting nutrient (nitrogen), changed habitat structure, disturbed community organization, and has been the most severe impact on one of the biologically richest habitats in the region. While undoubtedly there are exceptions to this theme of destruction, clearly much of the ecological integrity of a variety of North American habitats is at risk from this land management practice.

In addition to grazing per se, the industry of livestock production entails a number of indirect costs to native biodiversity. Livestock compete with native herbivores for forage ("usurpation") and often consume the most nutritive species ("highgrading"). Fencing, which is a fundamental livestock management tool, creates obstacles for many native wildlife species, such as the pronghorn (*Antilocapra americana*). The livestock industry has played a large role in the elimination of native predators; some of the most vehement opposition to predator reintroduction continues to come from livestock interests. Exotic species, such as crested wheatgrass (*Agropyron cristatum*), are planted as "range improvements." In addition, livestock can transmit disease to native animals (Mackie 1978; Longhurst et al. 1983; Menke & Bradford 1992).

Agency management priorities often overemphasize livestock needs at the expense of wildlife. A recent Congressional study of BLM and Forest Service management confirmed that wildlife receives only a small percentage of available staffing and funding. During fiscal years 1985-1989 the BLM directed only 3% of its total appropriation toward wildlife habitat management, while 34% of its budget went to its three consumptive programs: range, timber, and energy and minerals (U.S. General Accounting Office 1991b). Wildlife at national wildlife refuges also suffers from management emphasis on livestock. Cattle grazing and haying occur at 123 refuges; at any given site these activities occupy up to 50% of refuge funds and 55% of staff time. Field studies indicated that these livestock-related activities directly impeded wildlife conservation (Strassman 1987). Strong agency bias in favor of grazing often leads to contradictory management decisions. A recent Forest Service

analysis of sensitive vertebrate species identified livestock grazing as one of five factors jeopardizing the northern goshawk (*Accipiter gentilis*) in the Southwest (Finch 1992). Yet the goshawk management recommendations (Reynolds et al. 1992), released by the same office in the same year, did not even mention grazing. Such predilections by agencies reflect similar biases within the range management discipline: a recent 500-page textbook on range management (Holechek et al. 1989) devotes one paragraph to nongame wildlife.

A variety of justifications are heard for grazing in the West. Because livestock has been such a prominent component of Euro-American settlement of the West, some observers see it as a traditional pastime and assume it is appropriate for the land. Some range managers maintain that livestock are actually necessary for ecosystem health, that "grass needs grazing" (Chase 1988; Savory 1988). Popular claims such as these are rooted in a scientific debate on the consequences of herbivory on grassland ecosystems. As the "herbivore optimization" hypothesis goes, loss of tissue to herbivores can actually increase total productivity of the grazed plant. Such a response to herbivory is referred to as "overcompensation" by the plant (Owen & Wiegart 1976; Dyer et al. 1982). When different levels of ecological hierarchy (individual, population, community; Belsky 1987) and a wide diversity of ecosystem types, geographic settings, and degrees of management intensity are lumped together into one generalized theory, clarity is lost. Much of the evidence for overcompensation comes from highly productive and intensively managed systems, not from arid rangelands (Bartolome 1993). Few studies have demonstrated overcompensation in western North America (Painter & Belsky 1993), where much of the rangeland resource is not grassland. Observations of native herbivores lend no support to the idea that compensatory growth has any relevance at the community level in western rangelands (Patten 1993). According to Vicari and Bazely (1993), "there is little evidence that the act of grazing per se increases the fitness of grasses, or any other plant species, except under highly specific circumstances."

Other scientists and range managers suggest that livestock, given their capacity for altering so many aspects of ecological organization, could be used as a wildlife management tool (Bokdam & Wallis de Vries 1992; Hobbs & Huenneke 1992). In summarizing a symposium on the topic, Severson (1990) clarified that such applications may be very limited, and that what benefits one species may prove detrimental to another. Because two species in the same community may vary in their response to grazing (Hobbs & Huenneke 1992), determination of its success or failure as a management practice depends on which species is used as a criterion. On many national wildlife refuges, grazing and haying occur with the rationale that these practices will benefit wild-

life. Upon review of 123 refuges, Strassman (1987) concluded that "although in theory cattle grazing and haying can be wildlife management tools, as implemented they are tools that do more harm than good."

It is often stated that livestock have merely taken the place of large native herbivores, particularly bison (*Bison bison*). The presettlement abundance of bison on the Great Plains is legendary. West of the Rocky Mountains, however, bison were rare or absent in Holocene times. The species was present in the northern Rockies region, marginally present along the northern and western perimeter of the Great Basin (Hall 1981; Mack & Thompson 1982; Zeveloff 1988; Van Vuren & Deitz 1993) and absent altogether from Arizona (Cockrum 1960; Hoffmeister 1986), western New Mexico (Bailey 1971), as well as most of California (Jameson & Peeters 1988), and Nevada (Hall 1946). The native steppe vegetation of much of the Intermountain West, characterized by caespitose bunchgrasses and a prominent microbiotic crust, reflects the absence of large numbers of large-hooved, congregating mammals. These steppe ecosystems have been particularly susceptible to the introduction of livestock; microbiotic crusts, as mentioned earlier, are easily damaged by trampling. In contrast, the slightly wetter Great Plains grasslands, characterized by rhizomatous grasses and a lack of microbiotic crusts, were well-adapted to withstand herbivory by large ungulates (Stebbins 1981; Mack & Thompson 1982). Theoretically, then, the Great Plains should be better suited to livestock grazing than the arid and semi-arid ecosystems west of the Rockies. It should also be noted that the ecological analogy between cattle and bison is incomplete. Cattle, unlike bison, spend a disproportionate amount of time in riparian habitats. In a comparative study of cattle and bison feeding ecology in the Henry Mountains, Utah, Van Vuren (1982) noted that cattle distribution was limited to gentle slopes near water, regardless of forage, while bison roamed widely, seemingly unaffected by slope or proximity to water.

The controversy about flood cycles and arroyo-cutting, discussed earlier, is but one part of a larger controversy concerning the respective roles of climate change and human land use—including livestock grazing—in changing the vegetation of western North America. The international borderlands of southern Arizona and northern Sonora, Mexico, have been the site of the most intensive study of this issue. The appearance of *The Changing Mile* (Hastings & Turner 1985) almost three decades ago promoted the then new idea that the region's dramatic vegetation change during the previous century was due to increasing aridity—to natural climate change—and not to human land-use patterns. Using pairs of photographs, one historic and one recent, *The Changing Mile* visually documented vegetation change and concluded that its cause was an increasingly arid climate. As for livestock, these authors felt the ev-

idence was somewhat ambiguous and concluded that livestock may have contributed to vegetation change in the region "but have not been the primary agent of change" (Hastings & Turner 1965). This work has since been widely quoted by livestock interests to support the idea that historic overgrazing was overstated and, therefore, to justify the continuation of grazing in the region.

Recently vegetation change along the Arizona borderlands has received renewed scholarly attention. This new work reached a very different conclusion: "probably no single land use has had a greater effect on the vegetation of southeastern Arizona or has led to more changes in the landscape than livestock grazing range management programs. Undoubtedly, grazing since the 1870s has led to soil erosion, destruction of those plants most palatable to livestock, changes in regional fire ecology, the spread of both native and alien plants, and changes in the age structure of evergreen woodlands and riparian forests" (Bahre 1991). Moreover, the new analysis (Bahre 1991) states that "the present historic evidence . . . casts serious doubt on the hypothesis that a shift toward greater aridity is the primary factor for regional vegetation changes." Bahre (1991) agrees that climatic oscillations since 1870 have resulted in short-term fluctuations in vegetation but insists that long-term directional changes, including degradation of riparian habitats and spread of exotic species, have resulted from human disturbances, including overgrazing, by cattle. Bahre challenges the conclusions of *The Changing Mile* on the basis of several factors, including lack of historic evidence to support several key assumptions in the earlier work (for example, that overgrazing had been practiced since the time of the Mexican occupation), and that the majority of historic photographs were taken after the worst grazing damage had already occurred. In other words, *The Changing Mile* made comparisons to the wrong baseline data. For now, the best historic evidence seems to support the idea that livestock grazing, interacting with fluctuations in climatic cycles, has been a primary factor in altering ecosystems of the Southwest.

Human intervention is needed to restore the West to ecological health. According to the BLM's own definition, over 68% of its lands are in "unsatisfactory" condition (Wald & Alberswerth 1989; U.S. General Accounting Office 1991a). Approximately 464 million acres of American rangeland have undergone some degree of desertification (Dregne 1983). Attempts at restoration of livestock-damaged ecosystems have offered both good and bad news: riparian areas often show rapid recovery upon removal of livestock, but more xeric uplands demonstrate little inherent capacity for healing.

Riparian areas appear to be relatively resilient. At a Sonoran Desert spring, Warren and Anderson (1987) documented dramatic recovery of marsh and riparian vegetation within five years of livestock removal. All nine aspects of trout habitat studied along Summit

Creek, Idaho, improved within two years of livestock removal (Keller et al. 1979). Mahogany Creek, Nevada, also showed major improvement in fisheries habitat after only two years of exclosure (Dahlem 1979). Beaver and waterfowl returned to Camp Creek, Oregon, within nine years of cattle exclosure (Winegar 1977). However, the aquatic component of riparian systems often is the quickest to show improvement. Szaro and Pase (1983) observed extremely limited recovery of a cottonwood-ash-willow association in Arizona after four years. Knopf and Cannon (1982) noted that a willow community was slower to heal than the adjacent stream: 10–12 years was insufficient for recovery of the former.

The U.S. General Accounting Office (1988b) recently reviewed riparian restoration efforts on BLM and Forest Service lands in the West and concluded (1) that even severely degraded habitats can be successfully restored and (2) that successful restoration to date represents only a small fraction of the work that needs to be done. They noted that successful techniques varied considerably from site to site, and that many sites could repair themselves, given respite from livestock. Successful riparian restoration efforts are summarized by the U.S. General Accounting Office (1988b) and Chaney et al. (1990).

In numerous studies of riparian grazing impact, investigators concluded that total removal of livestock was necessary to restore ecosystem health. Along Mahogany Creek, Nevada, reduction in grazing had little benefit; only a complete removal brought about habitat improvement (Dahlem 1979; Chaney et al. 1990). Ames (1977) found that even short-term or seasonal use is too much and compared mere reductions in livestock numbers to letting "the milk cow get in the garden for one night." In a recent comparison of 11 grazing systems, total exclusion of livestock offered the strongest ecosystem protection (Kovalchik & Elmore 1992). As Davis (1982) put it, "If the overgrazing by livestock is one of the main factors contributing to the destruction of the habitat, then the solution would be to ... remove the cause of the problem."

The vast majority of damaged rangeland acreage is on arid and semiarid lands, where the prognosis for restoration is poor (Allen & Jackson 1992). To rehabilitate arid lands is somewhat analogous to trying to grow a garden without water. Perhaps because there is little chance of rapid success, land managers have been slow to take up the challenge of restoring arid rangelands. Cooperrider (1991) noted that "the principal purpose of most rangeland rehabilitation projects has been restoration of livestock forage. Such projects typically end up reducing plant and animal species diversity." Some dryland restoration projects touted as success stories (such as the Vale project in southeastern Oregon; Menke & Bradford 1992), actually have entailed large-

scale plantings of exotic species. Such activities restore livestock forage, not native ecosystems.

Is there an ecologically sustainable future for livestock grazing in western North America? This ultimately is a question of human values, not of science. We must decide how much we really care about native diversity and ecosystem processes and what we are willing to do to sustain them. Ecological science and conservation biology have a key role to play in helping society make a wise decision. Scientific input into grazing issues has come laden with resource extraction assumptions: one of the primary goals of range management is to maximize livestock production (Stoddart & Smith 1943; Bell 1973; Menke & Bradford 1992) or to "improve the output of consumable range products" (Holechek et al. 1989). Given this economic underpinning, the ecological merit of livestock in the West has generally gone unchallenged. It is time that conservation biologists take a careful look at the most pervasive land use in western North America and scrutinize the practice described as "the single most important factor limiting wildlife production in the West" (Smith 1977) and "one of the primary threats to biological diversity" (Cooperrider 1991). Whatever decision society reaches, it will be a wiser, more informed one if the conservation biology community contributes its insights to the debate.

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# SOCIETY FOR CONSERVATION BIOLOGY POSITION STATEMENT:

## Extent of Livestock Grazing in the Region

Grazing by domestic livestock is the most ubiquitous land management practice in the western United States. Approximately seventy percent of the eleven western states are currently grazed, including virtually all western ecosystem types—subalpine meadows, forests, grasslands, deserts, woodlands, and chaparral and other shrublands. All types of public lands are grazed, including national forests, lands managed by the Bureau of Land Management, wildlife refuges, military installations, wilderness areas, even national parks and monuments, as well as a variety of state, regional, and county lands. This represents a dramatic ecological change because most western ecosystems supported few, if any, large grazing mammals before Euro-American settlement. Those large mammals that did exist previously, such as bison and pronghorn, had very different food habits, behavior, and ecological effects.

## Ecological causes for concern

Most rangelands are currently in deteriorated ecological conditions. Past grazing practices have had detrimental effects on the composition, function, and structure of native ecosystems.

Livestock grazing has led to a decrease in native species richness in a broad array of ecosystem types. Additionally, a wide variety of taxa has experienced a decrease in population densities under grazing pressure. In addition to the more conspicuous megafauna and flora, microbiotic taxa, such as mycorrhizae which are essential for higher plants, have been affected. Of particular concern are rare taxa, which can be put at high risk by livestock. Other causes for concern about the ecological influence of livestock grazing include increases in alien species, alteration of animal foraging guilds, control of native predators and grassland species for economic gains, and increases in livestock-borne diseases among native wildlife species such as bighorn sheep.

Livestock grazing also affects several ecosystem functions, such as nutrient and hydrologic cycling, and succession. The cycling of nitrogen, the most important limiting nutrient in arid and semiarid ecosystem, is disrupted through trampling damage to microbiotic soil crusts. Western ecosystems also lose nutrients because they are tied up in livestock feces, which in some cases cannot be recycled due to lack of appropriate decomposers (for example, dung beetles in the Great Basin). When livestock are exported to markets, nutrients are lost from western ecosystems on a massive scale. Livestock interfere with ecological succession, especially in riparian communities. The quality and availability of water is also diminished by the presence of livestock. Overall, these activities lead to increased evapotranspiration rates and desertification.

Physical structure of livestock-influenced ecosystems is also altered. In many cases, vegetation strata are lost because plant

regeneration is disrupted by foraging and trampling by livestock. The activity of livestock removes residual ground cover and soil litter, and compacts soil, leading to decreased water infiltration, and thus increased water runoff and soil erosion. The net effect of such interactions is a loss of available water to biotic communities.

Livestock, especially cattle, spend a disproportionate amount of time in riparian habitats. Thus, these sites, which are among the biologically richest in the region, are easily damaged. Because these communities provide essential habitat for a wide variety of species, this can have severe effects on regional biotas.

In sum, livestock grazing, which occurs throughout a majority of the American West, has a host of negative ecological repercussions. Livestock grazing has reduced densities and biomass of many plant and animal species, reduced biodiversity, aided the spread of exotic species, interrupted ecological succession, impeded the cycling of the most important limiting nutrient, changed habitat structure, disturbed community organization, and has been one of the most severe impacts on one of the biologically richest habitats in the region. While undoubtedly there are exceptions to this theme of destruction, clearly much of the ecological integrity of a variety of North American habitats is at risk from this land management practice.

## A Call for Action

The ecological evidence is clear that livestock grazing must be drastically reduced in the American West. We urge the public land management agencies to undertake the following for lands and resources under their jurisdiction:

1. Evaluate the ecological costs and appropriateness of livestock grazing on an ecosystem by ecosystem basis.

The public agencies must analyze the ecological dynamics of each ecosystem type to determine whether, and to what extent, livestock grazing has an ecologically justifiable role. The "litmus test" should be the following: Can livestock grazing be done in such a manner that it helps maintain or improve the health, biological diversity, and long-term productivity of this ecosystem? Livestock grazing on public rangelands is not justifiable unless the answer is a clear and substantiated "yes."

2. Remove livestock immediately from damaged areas, except where it can be shown that grazing provides benefits (as described in #3 below).

The land management agencies should act immediately to remove livestock grazing from sites that fit the U.S. Bureau of Land Management definitions of "good" with "stable or declining trends," or worse, rangeland conditions. Riparian areas are of special concern due to their great biological significance.

## LIVESTOCK GRAZING ON PUBLIC LANDS IN THE UNITED STATES OF AMERICA

3. Allow livestock grazing only where, and in such a manner, that it serves positive ecological roles.

With a view to the longer term, the public land management agencies should initiate steps to phase out livestock grazing from those ecosystem types where the practice does not pass the "litmus test" for ecological justification (see #1 above), for example, in desert scrub and desert grassland ecosystems. For those ecosystem types where livestock grazing *does* have potentially beneficial ecological roles (for example, achieving and sustaining diversity of vegetation types or successional stages at the landscape scale), the agencies should bring grazing under management that ensures its positive contribution to the health, biological diversity, and long-term productivity of those systems.

4. Help society make informed choices.

Honestly articulate the ecological costs and consequences of livestock grazing, as well as the beneficial roles grazing can serve if carefully managed in certain ecological settings. Make scientific information understandable and accessible, so that society can make informed choices about public lands and resources.

5. Establish a network of significant areas where livestock are excluded, to serve as benchmarks for scientific evaluation of the ecological effects of grazing.

These benchmark areas should be established in all major ecosystem types of the American West, and should be large enough to evaluate landscape-level processes.

6. Eliminate grazing on public lands where it is accompanied by widespread control of native predators.

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Society for Conservation Biology,  
Public Lands Grazing Committee:

Thomas L. Fleischner, Chair  
David E. Brown  
Allen Y. Cooperrider  
Winifred B. Kessler  
Elizabeth L. Painter

Approved by the Board of Governors of the Society for Conservation Biology, 11 June 1994

This position statement was developed in conjunction with a lengthier review article which includes extensive supporting literature citations. See Fleischner, T.L. 1994. Ecological costs of livestock grazing in western North America. *Conservation Biology* 8(3):629-644.

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9 July 1995  
U.S. Senate  
Washington, D.C.  
20510

Re: Senate Bill 852, Livestock Grazing Act

Dear Senator

I am writing to express my strong reservations about Senate Bill 852, the livestock Grazing Act that was introduced by Senator Pete Domenici of New Mexico. This Bill is bad for the western rangelands, bad for the American people and bad for the livestock industry that is supported by public lands grazing. This bill will effectively reverse the progress in improved land management that scientists, range managers, and livestock raisers have implemented since the passage of the Taylor grazing Act in 1934. Because of the potential devastating consequences that this bill could have on the productivity of America's rangeland, wildlife and water resources it should be defeated.

I have spent most of my life working with livestock and rangelands. I have worked on cattle ranches in Texas, New Mexico and Oregon. For the past 19 years I have worked in range management and research in the Western USA. This includes work in Texas, Oklahoma, New Mexico, Idaho, California and Utah. I have been a professor in the Department of Rangeland Resources, Oregon State University for over nine years. I have published over 100 papers on natural resource science and management. All of my practical and scientific experience leads me to conclude that this bill is not in the best interests of the public rangelands or the users of them.

As a University Professor in a Land Grant Institution it is my privilege and responsibility to teach students how to become good stewards of the land. I have taught courses in basic range management, fire Science, and riparian ecology and management. My students include the sons and daughters of ranchers, farmers, fishermen and urban dwellers. This bill sends a strong message to future generations of Americans. That is short term economic interests will take precedence over the 60 years of scientific and practical experience that should guide land management decisions.

In addition to my research and teaching responsibilities in western rangelands I have also worked on livestock and natural resource problems in Brazil, Mexico, Venezuela, and Africa.

Desertification and the loss of the diversity and productive capacity of the land is a global concern in these countries. Working in these countries has given me a strong appreciation of the laws and policies of the USA that govern the management of our rangelands. However, it is important to remember that desertification is a very real phenomenon in our own Western Rangelands. Thousands of dedicated scientists, land managers, students, private land owners and the interested public are working to halt and reverse this process in the west. Senate Bill 852 would effectively eliminate the capacity of these groups to improve the productivity and diversity of America's Rangeland Resources.

Western rangelands are important for a variety of resources in addition to livestock. I have research projects in Oregon that are discovering methods to meet the habitat needs of salmon, trout, and steelhead on healthy riparian rangeland ecosystems. These fish are also an important rangeland resource and vital to the economy of many coastal and Native American communities in the Pacific Northwest. Senate Bill 852 would dramatically decrease the ability for land managers to improve the fish habitats of western rangelands. From my scientific perspective this bill could result in a decline of the fisheries resource with a concomitant decline in the forage resources for livestock. In short range productivity will decline to the detriment of both the agricultural and fisheries industry.

Western rangelands play host to an incredibly rich diversity of wildlife and plants. These organisms all play a role in the functioning and perpetuation of the ecosystem. A good example of wildlife diversity on rangelands includes our discovery that 13% of all North American bird species have been observed to utilize a single mile and a half stretch of riparian habitat in Northeastern Oregon. Birds play an integral ecological role in insect regulation. Their decline could exacerbate insect problems in both western forests and rangelands. As such, it is prudent that we manage their habitats. Managing the incredible complexity and relationships that occurs on western rangelands will be necessary for the perpetuation of the livestock industry and all other related economic entities.

In summary, rangelands provide a variety of resources important for Americans. This includes fish, wildlife, recreation, fresh water, and livestock forage. The overwhelming scientific evidence is that improper livestock management will ultimately result in the precipitous decline or loss of these resources. Senate bill 852 will not help the western livestock industry because it will reverse 50 years of scientific advances in our approaches to rangeland management. Future generations of Americans deserve the privilege of benefiting from healthy rangelands. It is our responsibility to see that we manage them properly. Senate Bill 852 would make it impossible for us to meet the obligation that we have for future generations.



If you have any additional questions or if there is anything that I can do to help you, please do not hesitate to contact me.

Sincerely

A handwritten signature in dark ink, appearing to read "J. Boone Kauffman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

J. Boone Kauffman, Ph.D.  
Associate Professor

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July 3, 1995

The Honorable Senator John McCain  
111 Russell Senate Office Building  
Washington DC 20500

Dear Senator McCain:

I'm writing you in response to the recent Senate Bill (#852) introduced by Senator Domenici and cosponsored by Senator Kyl. Being born and raised on a farm-ranch operation in eastern New Mexico and educated in the Southwest in range and wildlife ecology, I am very familiar with the issues and problems. For the past 24 years at Arizona State University I have been actively involved with federal and state agencies in efforts to improve riparian habitats on public lands. These habitats are highly degraded from water management (i.e., dams, channelization, etc.), groundwater pumping, and domestic livestock grazing. When domestic livestock are unmanaged they are highly destructive to water quality and wildlife populations in riparian areas.

If Senate Bill 852 were to become law it would continue and intensify the degradation of fish and wildlife resources in riparian habitats on public lands. These are resources that future generations must have if they are to survive in the arid West. Riparian habitats make up less than 1% of the Western landscape and provide water and farmland for our existence, plus valuable wildlife habitat. The Bureau of Land Management needs more range management control over domestic livestock grazing of public lands if future generations are to have clean drinking water and utilizable natural resources.

Some range managers argue that Western upland conditions have improved over the past 30 years while others say they have declined. Changes in range condition in the uplands is very slow compared to riparian areas, yet riparian areas are heavily degraded and the continuing trend is downward.

Therefore, for the sake of future generations, I urge you to vote no on Senate Bill 852 and let our land managing agencies do their job. To my knowledge, no one is forced to accept a grazing permit on public lands and, present laws and regulations were established to ensure the long-termed productivity of these lands.

Sincerely yours,



Robert D. Ohmart, Ph.D.

RDO/cdz

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The Bureau of Land Management (BLM) is responsible for the management of 270 million acres that belong to the United States. Under existing law, the BLM must assess the impacts of different uses of the public lands on other uses and users, and determine how to balance the competing demands on the resources provided by our public lands.

The main goal of the public land management program is to restore and maintain the health of the land, for the public today, and for generations into the future. This land can support many uses provided those uses are sustainable and do not destroy the land and its resources.

As a person who grew up on a ranch in Oklahoma I can not even think of leasing land out under the Livestock Grazing Act that is pending before this Subcommittee, and that is what we are talking about. We, the public, are the land owner and you are proposing to lease our land under the conditions in the Livestock Grazing Act.

**Would you lease land that you could no longer hunt, fish, backpack, or drive on?**

Today, millions of Americans and visitors from around the world explore and enjoy the diversity of resources that can be found on lands administered by the BLM throughout the West.

Most of the 270 million acres of BLM lands are accessible to a wide variety of user-including hunters, anglers, off-road-vehicle travelers, backpackers, bird watchers. We should have every right to use our public lands -- the same right as the livestock industry using the lands for profit.

The Livestock Grazing Act could change the way the public lands are managed, and even result in keeping the public off the "public" lands. Access to these lands depends in many areas on right-of-way that have been granted by private land owners across private lands that are adjacent to the public domain. The bill raises questions about the future of these access agreements.

**Would you lease land on which you would have little or no say?**

Under the proposed bill, only "affected interests" will be given an opportunity to comment on grazing decisions. Under the restrictive definition of affected interest, ordinary citizens who use and care about the public lands will not even have an opportunity to have their opinions heard unless they can prove, through "substantiated evidence," that they are affected by livestock grazing. In no other branch of administrative law are citizens

required to meet this kind of burden of proof before they can even receive information and express opinions.

**Would you lease land when you could only have a say if you were seeking consensus solutions?**

Under the Livestock Grazing Act no person may serve on an advisory council unless he or she "has demonstrated a commitment to seeking consensus solutions to resource management issues." This requirement is inconsistent with the principle that all interests deserve to be represented, and it may be inconsistent with the First Amendment to the United States Constitution.

**I would only lease out land to a good steward.**

According to the Environmental Protection Agency, streamside or riparian zones are in the worst shape in this century, due primarily to poor grazing practices. The majority of the public lands remain in unsatisfactory ecological condition due to the past century of abuses.

Under the Livestock Grazing Act, the BLM would be unable to make changes in grazing practices because the bill limits the kinds of decisions managers can make regarding grazing, even when resource damage due to grazing is occurring. It would take years of expensive monitoring before changes in grazing management could even be considered under the Livestock Grazing Act. The BLM does not have the resources to establish monitoring systems throughout the public lands. Therefore, no action could be taken to correct the damage from bad grazing practices.

**Would you lease out land when you were prevented from protecting the water quality, riparian areas, wildlife habitat and archaeological sites?**

The Livestock Grazing Act states that the only stocking rates changes that could be made must be supported by "rangeland studies." "Rangeland studies" are limited to measurements such as utilization, trend, and production, that indicate the condition of the livestock forage resource. The impacts of grazing on other resources and use are not reflected in the studies, and therefore, could not be considered in the determination of stocking rates.

There are many other things in this bill that as a land owner I would not even think of considering when making a decision about leasing out my land. The proposed legislation would deny owners of public lands, you and I, their right to enjoy their land. It is my opinion this bill is not in the public, the owners, best interest.

Thank you for the opportunity to comment on the Livestock Grazing Act.

Affiliated with National Wildlife Federation

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Statement of Joyce Mendel, New Mexico Wildlife Federation  
Before the Subcommittee on National Parks, Forests and Lands  
Committee on Resources, U.S. House of Representatives  
July 11, 1994

Good afternoon. My name is Joyce Mendel and I represent the New Mexico Wildlife Federation. Thank you for the opportunity to testify before the Subcommittee about the Livestock Grazing Act, H.R. 1713.

The Livestock Grazing Act should not be adopted by Congress.

The New Mexico Wildlife Federation was formed in 1914 because people of the state were concerned about the loss of our wildlife. We promote multiple use management for the public lands, with a place for wildlife habitat, livestock grazing and other public lands uses.

Currently, the Bureau of Land Management (BLM) and the Forest Service lands constitute about a third of New Mexico's land area and support a large part of the wildlife related activity in our state. These activities generate \$750 million annually.

The New Mexico Wildlife Federation wants the public lands managed for wildlife as well as for livestock, and to provide recreation for hikers, photographers, wildlife observers, anglers and hunters.

The New Mexico Wildlife Federation is concerned about the impact of the Livestock Grazing Act on wildlife on the public lands. We are involved with conservation projects to promote wildlife habitat on public lands. While we are working to improve conditions for wildlife populations on public lands, the Livestock Grazing Act could undermine these efforts by making livestock grazing the dominant use of the land. The BLM would be limited in managing for uses other than livestock, which could harm the wildlife that reside on public lands, or limit their ability to protect sensitive areas.

In addition, the legislation could have significant long term impacts for the public lands. The 1994 Rangeland Reform Draft



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and the Natural Environment Upon Which All Life Depends*

Environmental Impact Statement projects a long term decline in riparian and wildlife habitat and recreation opportunities on BLM lands under the current grazing management. If the Livestock Grazing Act is passed, that decline could accelerate. At best, current levels of grazing use would be mandated under the bill, maintaining the current rate of decline.

The public's role in grazing management on public lands also would be severely limited if this bill were enacted. The public would no longer be able to participate in decisions about grazing permits or decisions about grazing allotments. The Grazing Advisory Councils, which are given authority to decide how the lands will be managed, will have no members of groups like mine. As the demand for many uses from the public lands continues to grow, now is the time to broaden public participation, not to restrict it.

Our ability to use the public lands in the future is at risk as well. The bill would waive any consideration of a rancher's willingness to provide access to public lands when the BLM grants a permit. Access to public lands could be more restrictive.

The bill would waive consideration of major wildlife protection laws for ranchers. The current regulations require that ranchers comply with the Bald Eagle Protection Act and the Endangered Species Act, or jeopardize their grazing privileges on public lands. But the Livestock Grazing Act deletes these laws from consideration.

Thank you for the opportunity to present our views on this legislation.

**Testimony of Frederick W. Obermiller, Professor, Oregon State University  
Before the Subcommittee on National Parks, Forests, and Lands  
Committee on Interior and Insular Affairs  
United States House of Representatives  
Washington, D.C.**

**On H.R. 1713  
The Livestock Grazing Act of 1995**

**July 11, 1995**

Chairman Hansen and members of the Subcommittee, thank you for providing all of us who are interested in the conservation of the Western Range and a symbiotic way of life and economic system with an opportunity to be heard. My name is Fred Obermiller. I am a professor of agricultural and resource economics, and a courtesy professor of rangeland resources, at Oregon State University. My area of specialization is the "Western Range Problem", the problem that the Livestock Grazing Act (LGA) of 1995 may, if enacted into law, once again resolve. Resolution of this divisive public policy issue is long overdue. It is too bad that we did not learn our lesson the first time around.

The Livestock Grazing Act (LGA) of 1995 is the most substantial piece of Western Range legislation since the Taylor Grazing Act (TGA) of 1934. The two Acts are, indeed, coupled—and in many ways the bill under consideration today reconfirms the statutory commitment made during the Great Depression to stabilize the public domain dependent western livestock industry. It is a case of *deja vu*.

It is my sincere hope that you will expeditiously pass the LGA as clarified and perhaps amended through your deliberations and debate, despite the vocal protests we have heard and will continue to hear, and the written denunciations we have read and will continue to read, just as your courageous predecessors did in 1934. I hope with equal sincerity that President Bill Clinton has the wisdom and foresight to sign the LGA into law in 1995, just as President Franklin D. Roosevelt did with the TGA in 1934 issuing the following press release:

"The Federal Government, by enacting this law, has taken a great forward step in the interests of conservation, which will prove of great benefit not only to those engaged in the livestock industry but also to the National as a whole."

[Reprinted in Edgar B. Nixon (ed), *Franklin D. Roosevelt & Conservation, 1911-1945*, Volume I, Hyde Park, New York: Franklin D. Roosevelt Library, 1957, pp. 312-313.]

**A Brief Review of Relevant History**

In 1934, order was brought to the open and chaotic western range through passage of the Taylor Grazing Act (48 Stat. 1269, Ch. 865; 43 U.S.C. 315 et seq.) and creation of the Division of Grazing, subsequently renamed the Grazing Service, in the Department of the

Interior. Despite vigorous opposition by some ranching interests, and equally vigorous support from other ranching interests, the economic ruin and prolonged drought of the previous five years led Congress to pass the Taylor Grazing Act (TGA) "to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range" (*Preamble*, Taylor Grazing Act of 1934).

The wheel turns. Section 103 of the Livestock Grazing Act of 1995 restates the policy goals of the TGA as the continuing objectives of the proposed Western Range legislation that is the subject of today's hearing, including the "orderly use, improvement, and development of federal land, enhancement of productivity of federal land by conservation of forage resources and reduction of soil erosion ..., and stabilization of the livestock industry dependent on the public rangeland." We are reliving history because special interests opposed to public land livestock grazing and others have not attempted to learn from the historical lessons that brought order to the Western Range.

### Essential Provisions of the Taylor Grazing Act

Under the TGA, a grazing permit and grazing lease system was implemented to regulate the use of the western range. "Rights" or "privileges" (depending on one's perspective—court interpretations have been inconclusive and contradictory) to graze specific parcels of federal land at certain times of the year and at certain stocking rates were allocated to "commensurate" parcels of privately owned hayland and water sources. Allocations were based on historical and customary local grazing patterns by established ranch units. Traditional intermingled and adjoining private-federal land use patterns were confirmed and recognized by Congress.

This statutory recognition of pre-existing grazing patterns assured fairness in the issuance of the original permits and leases and promoted industry and community stability. And by recognizing the preference in and for traditional joint uses of deeded and public domain lands, overgrazing associated with the "Tragedy of the Commons" came to an end leading to resource conservation and range recovery that continues today.

While the Taylor Grazing Act was a great success, the administering agency was not. Many bureaucracies, once created, grow in number of employees and budget and strive for greater power. So it was with the agency responsible for implementing the TGA: the Grazing Service, a bureau in the Department of the Interior. Protests by the regulated ranchers became increasingly strident. The Service was attacked on the floor of both the House and Senate as arrogant, dishonest, and spendthrift. In 1946 Congress reduced the appropriations to the Service by one-half. The Director was relieved of his duties and two-thirds of the Service's staff were dismissed. The Service was dissolved by Presidential order, and its ashes were merged with the General Land Office to create the new Bureau of Land Management.

### Reemergence of the "Western Range Problem"

From 1946 to 1976 the BLM remained a small and relatively innocuous land management agency. But with passage of the Federal Land Policy and Management Act (FLPMA) in



1976 (43 U.S.C. 1701 et seq.), the BLM received a formal multiple use and land use planning mandate. Number of employees and budget grew. The grazing management focus of the agency began to diminish. Grazing fees climbed; regulations proliferated. Ranchers and local community leaders became increasingly restless.

Members of Congress not supportive of the western ranching industry had the General Accounting Office do a number of studies on the BLM and the ranching industry it regulates. The "findings" were used to generate public support for fee increases and even more regulations. A number of House and Senate hearings on the "western range problem" were held beginning in 1987, but no legislation passed both chambers. Lots of smoke, but no fire.

The fire broke out in August 1993 when Secretary of the Interior Bruce Babbitt released a draft administrative rule—"Rangeland Reform '94." (*Federal Register*, August 13, pp. 43203-43231 and 43234-43237). Regulations would proliferate. The Reform would virtually eliminate livestock grazing on some parts of the public domain, especially riparian areas, given the proposed national "standards and guidelines" and associated penalties for noncompliance and/or failure to achieve mandated conditions of "rangeland health." Grazing fees would more than double—a "nonmarginal" change in the jargon of economics. The western livestock industry and affiliated groups rebelled.

Late in 1993 an attempt was made in the Senate to legislatively enact the secretary's reforms. A filibuster ensued and the attempt was thwarted. But the Secretary persevered in what had come to be known as the "War on the West."

On February 22, 1995 the new final regulatory reforms were printed in the *Federal Register* (pp. 9894-9971). The Secretary said the new regulations would take effect in six months (on August 21). That gave Congress 180 days to pass countervailing legislation. Many regarded the challenge as "mission impossible" since, as in 1934, the industry's position on 1995 grazing legislation was divided on the fee, explicit grazing rights, and composition of advisory committee issues, among others.

### The Livestock Grazing Act of 1995 May Re-Resolve the "Western Range Problem"

Because of the efforts of leading western Senators—Domenici (NM), Craig (ID), Burns (MT), Campbell (CO), and Conrad and Dorgan (ND) and others; and Representatives—Cooley (OR), Hansen (UT), Herger and Doolittle (CA), Skeen (NM), Crapo (ID), Vucanovich (NV), and others—on May 25 the Livestock Grazing Act of 1995 was introduced in the Senate (S. 852) and House (H.R. 1713). The LGA substitutes the intent of Congress for the will of the Secretary of the Interior. If the public land dependent western livestock industry is to survive, the bill must pass and be signed into law by the President.

The text of the LGA is of necessity very long, because the rangeland reform rule and regulations are detailed, complex, and sophisticated. To avoid misinterpretation, the framers of the legislation feel that they must unequivocally state its full intent in the LGA text.

### Key Provisions of H.R. 1713 and S. 852

In my view, the Livestock Grazing Act as proposed has many strengths. For example, local decision-making based on verifiable scientific facts rather than individual beliefs and on bottom-up logic rather than top-down mandates is a dominant theme in the LGA. Incentives for good stewardship and private-public partnerships create a positive atmosphere for grazing administration and management. Non-confrontational "concerned, knowledgeable citizens and public officials" who have "demonstrated a commitment to seeking consensus solutions to resource management issues" and who are residents of the state (Resource Advisory Councils) or local communities (Grazing Advisory Councils) sit on advisory boards.

Historical levels of grazing intensity and other grazing "rights" or "privileges" are acknowledged and protected. Renewal of grazing permits and leases creating stability for federal land ranchers is assured for all who abide by relatively modest and realistic terms and conditions of grazing contracts. Grazing contracts are given a longer term: 15 years rather than ten. Ownership of rancher-financed improvements is awarded to the investor. The supremacy of state water law is reaffirmed in that (1) "In managing livestock grazing on Federal land, the Secretary shall follow State law with regard to water ownership", and (2) "Nothing in this title shall be construed to create an expressed or implied reservation of water rights in the United States."

The grazing fee provisions of the bill result in a reasonable fee level, assuming that a reasonable fee is such that the average total cost of grazing livestock on public domain versus privately owned rangelands are approximately equal. There are some questions about the fee formula in that it reflects no clear underlying pricing principle, but the bottom line is that the formula generates a fee level consistent with the equal grazing cost per AUM pricing principle that underlies the existing "PRIA" grazing fee formula (Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901 et seq.).

Like the TGA, no one is satisfied with all parts of the LGA. Areas in need of improvement include extending the provisions of the bill to encompass the Forest Service grazing program: this surely will be done via amendments. Greater attention needs to be given to excluding frivolous and confrontational interests from the planning, administration, and management of public domain livestock grazing. Rangeland planning standards and guidelines need to be localized to the maximum possible extent. The surcharge arrangement for "subleases" could be improved. Some have expressed concern that the LGA may give too much judicial power to BLM line officers and too little room for administrative appeal to permittees and lessees.

### Are the Criticisms Valid?

A number of criticisms of the proposed legislation have been voiced by representatives of the Administration, by opponents of public domain livestock grazing, by the press, and even by a staff member of the Congressional Research Service. It may be appropriate to comment here on some criticisms that seem to have little or no factual basis.

- It is not correct, as the Acting Director of the Bureau of Land Management stated at the Senate subcommittee LGA hearing on June 22, that the LGA "would change many

provisions of existing law and regulation..." To the contrary, the LGA would reconfirm and expand upon existing law—particularly the Taylor Grazing Act, the Bankhead-Jones Farm Tenant Act of 1937 (50 Stat. 525, 7 U.S.C. 1010-1012), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), among others and would codify existing regulations pursuant to existing law.

- Nor, according to professional range scientists who have written in support of the LGA, is it correct to declare, as the Acting Director did on June 22, that the bill before you would "turn back the clock on rangeland management." These university-affiliated and independent range science professionals state that the "Rangeland Reform '94" initiative to which the LGA responds, if implemented, would have been to step backward.

- It is misleading to state, as the Acting Director did, that "millions of acres of public land remain in poor condition" since the data published by his own Bureau of Land Management (*Public Land Statistics*) demonstrate steady and significant improvement since 1934 in public domain range conditions. Based on a detailed survey, in Senate Document 199 (1936) the Forest Service reported that fully 84.2 percent of the Western Range was in poor or fair condition, conditions called (erroneously, but that is another issue) by those who would prefer to see range livestock grazing reduced or eliminated "unsatisfactory." Less than 1.5 percent of the public domain grazing lands were said to be in excellent condition (*The Western Range: A Great But Neglected Resource*, Washington, D.C.: Forest Service, United States Department of Agriculture).

In 1984, fifty years after the passage of the Taylor Grazing Act, the BLM reported that 59 percent of the western rangelands were in poor or fair condition, and five percent were in excellent condition—30% of the "unsatisfactory" Western Range had become "satisfactory" in the presence of regulated livestock grazing. By fiscal year 1991, one half of the western rangelands were listed as in poor or fair condition. Another 10% of the range had been converted from "unsatisfactory" to "satisfactory" condition in less than a decade, again in the presence of regulated livestock grazing. In its *Rangeland Reform '94 Final Environmental Impact Statement* the BLM projected continued improvement in both upland and riparian conditions under its "Alternative 1: Current Management, Livestock Use."

H.R. 1713/S. 852 does not, as the Acting Director claimed, "focus public rangeland allocation and management on the single use of livestock grazing—de-emphasizing other uses and values of public lands such as mining, hunting, recreation and wildlife." The LGA does not repeal the provision in §1 of the TGA stating that "Nothing in this Act shall be construed as in any way altering or restricting the right to hunt or fish within a grazing district in accordance with the laws of the United States or any State, or as vesting in any permittee any right whatsoever to interfere with hunting or fishing within a grazing district." The LGA does not amend or repeal any mining, hunting, fishing, or recreation law. The LGA, like the TGA, is intended simply to establish a statutory framework within which a lawful and recognized beneficial use of the public domain—domestic livestock grazing—is regulated.

- While the Acting Director said that the LGA would “severely limit public involvement in the management of the public lands”, relative to current provisions for public participation the reverse is true. More, not fewer, advisory councils and council members would exist under the LGA than currently exist.

The long and short of it is that the Acting Director and other members of the Administration are opposed to H.R. 1713/S. 852 not because the bills are inconsistent with existing statutes and existing regulations, but rather because the LGA would reconfirm the TGA and thus create a major obstacle to an Administrative end run on congressional prerogatives—effectively blocking the implementation of “Rangeland Reform ’94.” It is up to Congress to decide.

#### What the Future May Hold

The Livestock Grazing Act of 1995 essentially is an update of the Taylor Grazing Act of 1934. The bills were written under similar circumstances and share a concern for industry stability and resource conservation. Both seek to establish a reasonable grazing fee. Neither excludes other multiple uses of the public domain, but both protect the leasehold and usufructuary interests of grazing lessees and permittees.

The Livestock Grazing Act probably will be amended as it moves through Congress, just as the Taylor Grazing Act was amended. Hopefully, House-Senate differences in the two versions of the same bill will be quickly reconciled. Will President Clinton sign the LGA in 1995 over the opposition of the Department of the Interior just as President Roosevelt did sign the TGA in 1934 over the strong opposition of the Department of Agriculture? Personally, I’m a believer in *deja vu*.

**Statement to the United States**  
**House of Representatives**  
**National Parks, Forests and Lands Subcommittee**  
**of the**  
**Committee on Resources**  
**Presented on July 11, 1995**  
**Longworth House Office Building, Room 1324**  
**Washington, D.C.**

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U.S. House of Representatives Committee on Resources  
Washington D.C.  
July 11, 1995

I greatly appreciate the opportunity to provide input to the U. S. House of Representatives Subcommittee on National Parks, Forests and Lands of the Committee on Resources. My comments will deal directly with House Bill H.R. 1713 cited as the Livestock Grazing Act of 1995.

It has been over 60 years since the passage of the Taylor Grazing Act (TGA) which provided enhanced resource stewardship, financially stable communities and livestock industry. Key ingredients to the success of the TGA were; assigned responsibility, skillfully crafted incentive packages, peer review, and defined agency management responsibility. Permittee and lessee were explicitly recognized as critical wheels to progress and necessary for implementation of national directives and priorities. These weren't "squeaky wheels" demanding more grease but rather load bearing wheels carrying our national policies forward.

Private Incentive: The federal lands require a high level of management skill by permittee, agency, and public alike; however; in many cases the federal lands have marginal capacity and have a limited ability to absorb input. That is, projects must be carefully evaluated for multiple uses and multiple benefits before scarce federal or private dollars are invested. Historically federal and private partnerships were actively pursued, jointly funded and benefits dispensed in mutually agreed patterns that fulfilled the objectives of agency and permittee alike. That trend is vividly displayed in Figure 1 entitled Range User Contributions to Improvements on BLM land. It is also readily apparent that such partnerships peaked at over \$2.5 million in 1985. One can only speculate as to the cause and effect of the foreboding decline in private sector investment in the future of BLM federal land.

Regardless of the myriad of reasons for the breakdown of the partnership, there exist some mandates for the refurbishment of "TRUST" so necessary for the enhancement of our national heritage and the benefit of future generations. Surely we have assembled the wisdom necessary to move into the 21st century from a position of strength. The cornerstone is "Responsible Production". Responsible production requires rewards for those individuals facing the challenges, risking life and limb and accomplishing the goals and objectives of the planning process. Longer tenure for those demonstrating sound stewardship, ownership of improvements on a proportional basis to investment, ability to capture additional resource response in a timely manner are all positive incentives that recognize the permittee as a partner and key player to long run range and forest health. Recognition of long term carrying capacity which allows timely increases and decreases

of a temporary nature without jeopardizing the long term carrying capacity is critical for prudent resource decisions. Accelerated on-the-ground monitoring of production and trend to quantitatively determine rangeland health and ecosystem wealth is essential to reward performance and to protect sensitive areas. However, it is mandatory that industry work with agency personnel and make the ever so difficult visit to fellow stockman who aren't demonstrating sound stewardship practices and insist on conformance.

It is my opinion that enticement through incentives achieves and sustains results when the parties are involved in the planning, implementation, and the follow-up monitoring. Pushing through additional regulation may accomplish short-term objectives but falls far short of attaining the long term goals of resource enhancement.

Grazing Fees: There are three givens when it comes to grazing fees: first, there is no perfect grazing fee formula; second, a grazing fee will overcharge some permittees on an animal unit month (AUM) basis and undercharge others and; third, federal grazing fees are not directly comparable to private grazing fees. Strong testimonies have been historically presented to this committee documenting the 3 givens.

The Taylor Grazing Act (Sec. 3) refers to "reasonable" fees and Public Rangelands Improvement Act (Sec. 2) refers to a fee which is "equitable" "to prevent economic disruption and harm to the western livestock industry". The Federal Land Policy and Management Act (Sec. 401a) refers to a fee which is "equitable to the United States and to holders of grazing permits". FLPMA & PRIA both cite "costs of production" "and such other factors as may relate to the reasonableness of such fees".

Economic theories of efficiency and optimization should not be inappropriately used to determine a grazing fee when the value-laden terms of reasonable, equitable, and fair are espoused; these are directly related to the equity portions of economic theory which require subjective assessments of what exactly fair, and reasonable really mean and to whom. We are not maximizing net return over time nor are we extracting every cent of consumer surplus from the range livestock industry. Rather, we are working on the broader scale of being equitable to the owner of the raw resources being used as a factor of production for livestock i.e. the United States and also preventing economic disruption to the user of the raw forage i.e. the holder of the grazing permit. This implies a much larger range for an acceptable and fair grazing fee.

The PRIA and FLPMA language state that cost of production were significant factors in determining a fair market value (FVM) and as such were included in the formula as the Prices Paid Index (PPI). This approach together with the Beef Cattle Price Index (BCPI) were often referred to as the "ability to pay" portion of the grazing fee formula. This orientation is consistent with sound business practices by including both

earnings and expenses and determining the net return. An examination of the published USDA, Economic Research Service (ERS) U.S. cow-calf production economic costs and returns for the last 21 years reveals that the bottom line return to management and risk has been negative for all of the last 21 years. Whenever the "bottom line" is being evaluated it is imperative to isolate which factors of production are being included to arrive at the bottom line; the ERS economic costs include induced costs of cattle purchases, unpaid labor, and depreciation i.e. capital replacement; therefore, it would be appropriate to look at a different "bottom line" of receipts less cash expenses. This has traditionally been called the Net Cash Returns and is now entitled the Gross Value of Production less cash expenses with the new methodology adopted by the ERS for the period 1990 through 1992. The net return was negative for 12 of the past 21 years even when only considering cash expenses. Even though the bottom line is negative it still does not warrant a negative fee for the federal forage as a factor of production.

Derived Demand: There is justification for valuing an input based on the value of product it produces; that is, the demand for forage is prompted by the demand for livestock. The demand for forage is derived from the demand for beef. The quantity demanded for some inputs is very sensitive to price changes. One of the major explanatory factors for this sensitivity is the ease of substitution for the input. Therefore, in heavily federal dependent areas and in year-long areas the impact and resultant shift away from federal forage due to a change in the price of federal forage will be relatively small because of the lack of substitute forage. In yearlong areas permittees will have to pay the higher price or go out of business. In seasonal areas the response will be much stronger.

The methodology for determining the basic fee for each animal month of grazing has several strengths beyond the most obvious of being simple to calculate. Concentrating on the cow as the basic unit explicitly recognizes that the mother cow is the producer and other classes of livestock are solely support units. This orientation can be traced back to a business production calculation called net-turn-off where the total pounds of livestock produced for the year for all classes of livestock are summed and divided by the number of brood cows. Tracking over time allows examination of climatic variation, new technology adoption, improved genetics and enhanced distribution on a per cow basis.

The net-turn-off per year is converted to a value of production by recognizing the price and quantity of each class of support livestock sold for each cow. This is the whole array of products sold on an annual basis and is converted to a gross value of product sold per month by dividing by twelve regardless of when during the year the product was sold. This figure is the historic cash receipt per cow now labeled the Gross Value of Production (GVP) on a U.S. basis. This approach is consistent with the derived demand approach to factor valuation.



**Grazing Fee Formula:**  $\text{Fee} = \text{GVP} \div 12 \times .06$

Dividing the GVP by 12 simply converts the annual Gross Value of Production to a monthly gross value. The next critical factor in the proposed formula is the rate at which the monthly GVP will be multiplied by to determine a fair return to the treasury for its forage resource and a reasonable user rate for the permittee.

**Rate Justification:** (See Table #1)

The GVP is for livestock sold from the ranch and is not equivalent to the higher inventory value per cow which reflects the value of retained breeding stock.

**6 Month T-Bills:** There are several places to examine when determining a fair return on gross value; the first would be to look at what the ERS is allowing the producer as a rate of return on his/her own operating capital. This rate is documented in the Costs of Production—Major Field Crops and Livestock and Dairy, 1992, ECIFS 12-3 pg. 6, as the annual average rate on 6-month U.S. Treasury bills. This rate was 4.66 in 1994 with a 5 year average of 4.87 and 10 year average of 5.90. The 5 and 10 year averages are certainly consistent with the 6% average in the proposed formula.

**Discount Rate:** The cost of private banks borrowing from the Federal Reserve Bank (Fed) is called the discount rate, and is the interest rate charged by the Fed to banks that borrow to meet temporary needs for reserves. This rate is what the U.S. receives for lending. This Discount rate by the Federal Reserve Bank of New York for a 5 year average from 1990 through 1994 was 4.46% and 10 year average was 5.51%. Very consistent with the 6% proposed rate.

**Federal Funds Rate:** When banks run short on reserves they can also borrow from other banks that have excess reserves. The cost of borrowing from other banks is the federal funds rate. The 5 year average from 1990 through 1994 was 4.91% and the 10 year average was 6.29%.

These options are relatively risk free and reflect the opportunity cost of the Fed's capital when lending through the Discount Rate and also the private banks opportunity cost through the Fed Funds Rate. In addition the U.S. Treasury was paying 5.9% average over the last 10 years to borrow capital. This is strong supporting evidence that 6% is equitable and reasonable to the United States and the holders of grazing permits.

**Formula Strengths:** Concept is equivalent to a gross receipts tax:

- 1) Three year moving average keeps fee current.
- 2) Fee not nearly as volatile; hence greater stability.
- 3) Simple and Based on the market value of the final product.
- 4) Uniform fee calculated from published independent federal agency.
- 5) Similar method to mining, skiing, outfitting.

Formula Weaknesses:

- 1) Cost of Production primary data last collected in 1990 and indexed forward.
- 2) Calculation on Gross Value of Production ignores the cost of production aspect.
- 3) Data lagged nearly 3 years, 1993 not available until September 1995.

Formula Performance: The fee formula as proposed would yield a \$2.16 fee for the 1996 fee year starting March 1st (Table 2). It would be calculated from the ERS published numbers for 1990, 1991 and 1992 as a rolling average. Tracking this formula backwards reveals that it would have been lower than the actual fee during the 70's and early 80's, and above the actual level in mid 80's and early 90's. The relationship is plotted in Figure #2. The 1996 fee of 2.16 is \$.55 per AUM higher than the current fee of \$1.61/AUM in 1995.

The formula configuration is only as strong as the support data behind it. The greatest enhancement of formula performance would be to minimize the lag time between receipts for cattle and payment of fee. The Gross Value of Production 3 year moving average must be of current years not the 3 year lag. The key to enhanced performance is capturing the current price trends and recognizing that the greatest variability is in the price side of receipts, not in the quantity sold.

The National Agricultural Statistics Service (NASS) collects price data for the relevant classes of cattle on a monthly basis and has a published yearly average by the end of February for the preceding year. Since this data is needed before this date in order to calculate a grazing fee for the current billing year which starts March 1st; it is recommended that the Economic Research Service forecast the last two months prices of the preceding year i.e. November and December to allow the 3 year moving average to entail 34 months of actual prices and 2 months of forecast prices. The end result is a grazing fee for the coming year that is based on the average GVP of the immediate 3 preceding years. Current trends in cash receipts would then yield a current fee synchronized with the highs and lows of the market. The quantity side could then be adjusted each decade by the traditional cost of production survey to reflect changes in genetic performance and other phenological trends.

Impacts to the Treasury: The number of federal AUM's of actual use are presented in Table 3 for the period 1985 through 1993. Contrary to public opinion the number of AUM's actually paid is not directly correlated to grazing fees. As the fees decrease the number of AUM's does not increase causing over grazing because the numbers are determined from long run carry capacity virtually unrelated to the fee level for marginal changes in grazing fees. The relevant question; is a change from \$1.61/AUM to \$2.16/AUM marginal? This constitutes a 34 percent increase in grazing fees while livestock prices are falling drastically (Figure 3). The \$2.16 figure would constitute 22.4% of the net return over cash costs for 1992. If the demand for federal forage is relatively inelastic in this price range, then the BLM and USFS will continue to permit and lease an actual use of approximately 16.6 million AUMs; that translates to \$9.1 million in

additional receipts. A portion of which goes directly to the U.S. Treasury by formula.

There are several reasons why the demand curve is relatively unresponsive to marginal price increases in this range: 1) the lack of available substitutes for federal forage particularly in year round grazing areas, 2) grazing is necessary to maintain beneficial use for water rights particularly in water base states, 3) historical market values of permits have been paid by a majority of current permittees, 4) the location and value of section #4 permits on BLM land prohibits turning back of federal AUM's, 5) federal AUM's are necessary for an economic ranch unit and 6) off ranch income is still being used to maintain "way of life".

There may be some marginal ranchers that go out of business. Ranchers in the highest risk category are those that are heavily federal dependent and highly leveraged by servicing over 60 percent debt. In New Mexico this is primarily the small rancher which comprise the majority of New Mexico ranches. The final determination as to reasonable and equitable is not an efficiency question rather it is an equity question, as to whom is impacted and to what degree.

The data in Table 4 reflect the increased dollars paid in grazing fees for different sized New Mexico ranches. No small or medium ranch is impacted by over \$1,100 but when coupled with reduced livestock prices, extended drought, and uncertainty of pending regulation it is obvious why capital and young people are not being attracted into the range livestock industry.

In summary the Livestock Grazing Act of 1995 is a comprehensive package of incentives to promote long-run resource stewardship and continued improvement of federal range condition. The grazing fee approach of a gross receipts tax is defensible and has precedence. The 6 percent rate reflects a fair return to a factor of production as evidenced by both the rate of federal earnings and rate paid for borrowed capital. The impact to the U.S. Treasury will be positive and only the most heavily federal dependent and highly leveraged livestock operator will be forced out of the industry. I strongly recommend that the U.S.D.A. Forest Service be included under the Act beyond just the grazing fee.

TABLE 1. Alternative Lending and Borrowing Rates 1965 - 1995

YEAR	U. S. Treasury Securities					Corporate Bonds		High Grade Municipal Bonds (S & P)	New Home Mortgage Yields	Commercial Paper 8-months	Prime Rate Charged by Banks	Discount Rate by Fed. of N. Y.	Federal Funds Rate
	Bills (New Issues)	3-month	6-month	10-year	30-year	Aaa	Baa						
1965	3.954	4.055	4.220	4.280	---	4.490	4.870	3.270	5.810	4.380	4.640	4.040	4.070
1966	4.881	5.082	5.230	4.920	---	5.130	5.670	3.820	6.250	5.550	5.630	4.500	5.110
1967	4.321	4.630	5.030	5.070	---	5.510	6.230	3.980	6.460	5.100	5.610	4.190	4.220
1968	5.339	5.470	5.680	5.650	---	6.180	6.940	5.970	5.900	5.900	5.600	5.160	5.680
1969	6.677	6.853	7.020	6.870	---	7.030	7.810	6.810	7.810	7.830	7.960	5.870	8.200
1970	6.458	6.562	7.290	7.350	---	8.040	9.110	6.510	8.450	7.710	7.910	5.950	7.180
1971	4.348	4.511	6.650	6.160	---	7.390	8.560	5.700	7.740	5.110	5.720	4.880	4.680
1972	4.071	4.466	5.720	6.210	---	7.210	8.160	5.270	7.600	4.730	5.250	4.500	4.430
1973	7.041	7.178	6.950	6.840	---	7.440	8.240	5.180	7.960	4.150	8.030	6.440	8.730
1974	7.866	7.926	7.820	7.560	---	8.870	9.500	6.090	9.840	6.320	7.860	7.830	10.500
1975	5.838	6.122	7.490	7.390	---	8.830	10.610	6.890	9.000	6.320	7.860	6.260	5.820
1976	4.989	5.266	6.770	7.610	---	8.430	9.760	6.490	9.000	5.340	6.840	5.500	5.040
1977	5.285	5.510	6.690	7.420	7.750	8.020	8.970	5.560	9.020	5.610	6.830	5.460	5.540
1978	7.221	7.572	8.290	8.410	8.490	8.730	9.490	5.900	9.660	7.980	9.080	7.460	7.930
1979	10.041	10.017	9.710	9.440	9.280	9.830	10.690	6.390	10.780	10.910	12.870	10.280	11.190
1980	11.506	11.374	11.550	11.460	11.270	11.940	13.670	8.510	12.660	12.290	15.270	11.770	13.360
1981	14.029	13.778	14.440	13.910	13.450	14.370	16.040	11.230	14.700	14.780	18.870	13.420	16.380
1982	10.686	11.084	12.920	13.000	12.760	13.790	16.110	11.570	15.140	11.890	14.860	11.020	12.260
1983	8.630	8.750	10.450	11.100	11.180	12.040	13.550	9.470	12.670	8.890	10.790	8.500	9.090
1984	9.580	9.800	11.890	12.440	12.410	12.710	14.190	10.160	12.380	10.180	12.040	8.800	10.230
1985	7.480	7.650	9.640	10.620	10.790	11.370	12.720	9.180	11.550	8.010	9.930	7.690	8.100
1986	5.980	6.030	7.060	7.680	7.780	9.020	10.390	7.380	10.170	6.390	8.330	6.810	6.810
1987	5.820	6.050	7.680	8.390	8.590	9.380	10.560	6.860	9.310	6.850	6.210	5.660	6.660
1988	8.690	8.260	8.850	8.960	8.960	9.710	10.830	7.760	9.370	7.880	9.320	6.200	7.570
1989	8.120	8.040	8.550	8.490	8.450	9.260	10.180	7.240	10.130	6.800	10.870	6.930	9.210
1990	7.510	7.470	8.260	8.550	8.610	9.320	10.360	7.250	10.050	7.950	10.010	6.980	8.100
1991	5.420	6.490	6.820	7.860	8.140	8.770	9.800	6.890	9.320	6.850	8.460	5.450	5.690
1992	3.400	3.570	5.300	7.010	7.670	8.140	8.980	6.410	6.240	3.800	6.250	3.520	3.520
1993	3.020	3.140	4.440	5.870	6.590	7.220	7.930	6.630	7.200	3.300	6.000	3.000	3.020
1994	4.290	4.660	6.270	7.090	7.370	7.970	8.630	6.180	7.470	4.930	7.150	3.600	4.210
Feb. 1995 <sup>1</sup>	6.800	6.100	7.250	7.470	7.610	8.260	8.850	6.220	8.280	6.380	9.000	5.250	5.920
5-year avg.	4.738	4.866	6.218	7.276	7.676	8.284	9.14	6.472	8.456	5.166	7.574	4.456	4.908
10-year avg.	5.778	5.903	7.228	8.041	8.295	9.016	10.040	7.165	9.263	6.356	8.453	5.509	6.289
20-year avg.	7.278	7.415	8.624	9.160	9.923	11.174	7.691	10.372	7.886	9.981	7.178	7.987	7.987
30-year avg.	6.685	6.834	7.770	8.130	8.848	9.952	6.798	9.347	7.401	8.913	6.564	7.416	7.416

Sources: Department of the Treasury, Board of Governors of the Federal Reserve System, Federal Housing Finance Board, Moody's Investors Service, and Standard &amp; Poor's Corporation.

<sup>1</sup> Not included in any averages.

Table 2. Gross Value of Production Fee.

Fee Year	ERS Publication Year	Gross Value of Production <sup>1</sup>	3 Year Rolling Average	FEE @ 6% <sup>2</sup> Gr. Value	Actual BLM Fee	PGLLR 11 State Avg.
1975	1972	140.39			1.00	5.75
1976	1973	174.42			1.00	6.37
1977	1974	126.75			1.51	7.06
1978	1975	119.03	147.19	0.74	1.51	7.11
1979	1976	134.73	140.07	0.70	1.51	7.53
1980	1977	146.91	126.84	0.63	1.89	7.88
1981	1978	244.55	133.56	0.67	2.41	8.83
1982	1979	352.30	175.40	0.88	2.31	8.36
1983	1980	306.91	247.92	1.24	1.86	8.85
1984	1981	260.64	301.25	1.51	1.39	8.86
1985	1982	255.49	306.62	1.53	1.37	8.40
1986	1983	247.18	274.35	1.37	1.35	8.10
1987	1984	258.78	254.44	1.27	1.35	7.55
1988	1985	254.39	253.82	1.27	1.35	8.49
1989	1986	265.47	253.45	1.27	1.54	8.70
1990	1987	323.39	259.55	1.30	1.86	9.19
1991	1988	359.69	281.08	1.41	1.81	9.25
1992	1989	372.15	316.18	1.58	1.97	9.41
1993	1990	441.59	351.74	1.76	1.92	9.70
1994	1991	438.23	391.14	1.96	1.86	10.00
1995	1992	413.56	417.32	2.09	1.98	
1996	1993		431.13	<del>2.16</del>	<del>1.98</del>	

<sup>1</sup>—From Economic Research Service. Costs of Production—Major Field Crops & Livestock and Dairy, 1992., ERS-NASS, August, 1994.<sup>2</sup>—Fee = (G.V.P. \* %)/12

**TABLE 3. Federal AUM Trends 1985-1993**

<b>Year</b>	<b>BLM AUMs</b>	<b>USFS AUMs</b>	<b>Total AUMs on Federal</b>
<b>1985</b>	10,876,112	8,337,080	19,213,192
<b>1986</b>	10,378,724	8,221,131	18,599,855
<b>1987</b>	11,102,250	8,038,771	19,141,021
<b>1988</b>	10,033,517	7,925,537	17,959,054
<b>1989</b>	10,968,341	7,672,697	18,641,038
<b>1990</b>	10,772,384	7,713,269	18,485,653
<b>1991</b>	9,539,273	7,012,185	16,551,458
<b>1992</b>	10,023,569	7,327,983	17,351,552
<b>1993</b>	9,696,410	6,903,876	16,600,286

Sources: Bureau of Land Management Public Land Statistics 1985-1993.  
Report of the Forest Service Fiscal Year 1985-1993.

**Table 4. Ranch Impact of Proposed Federal Grazing Fee.**  
(From \$1.61 TO \$2.16)

Location	Size	Federal Forage (AUMS)	Change \$/Ranch
Southwest	Small	744	409.20
	Medium	1776	976.80
	Large	3180	1749.00
Northwest	Small	1248	686.40
	Medium	1896	1042.80
	X-large	3588	1973.40
Central	X-small	540	297.00
	Small	1608	884.40
	Medium	1260	693.00
	Combination	684	376.20
Southeast	Medium	1404	772.20
	Large	2556	1405.80
	X-large	3996	2197.80
	Combination	2004	1102.20
Gila Nat'l Forest	Small	1248	686.40
	Medium	2532	1392.60
	X-large	5604	3082.20

Source: Adapted from "The Economic Impacts to New Mexico Ranchers of Increasing Grazing Fees to Levels Proposed in Rangeland Reform 94' and by Legislative Compromise". Torell, L. A., Larry Brence and Wesley B. Word. Range Improvement Task Force, Report 36. New Mexico State University, April, 1

**Figure 1. Range User Contributions To Improvements  
On BLM Land.**

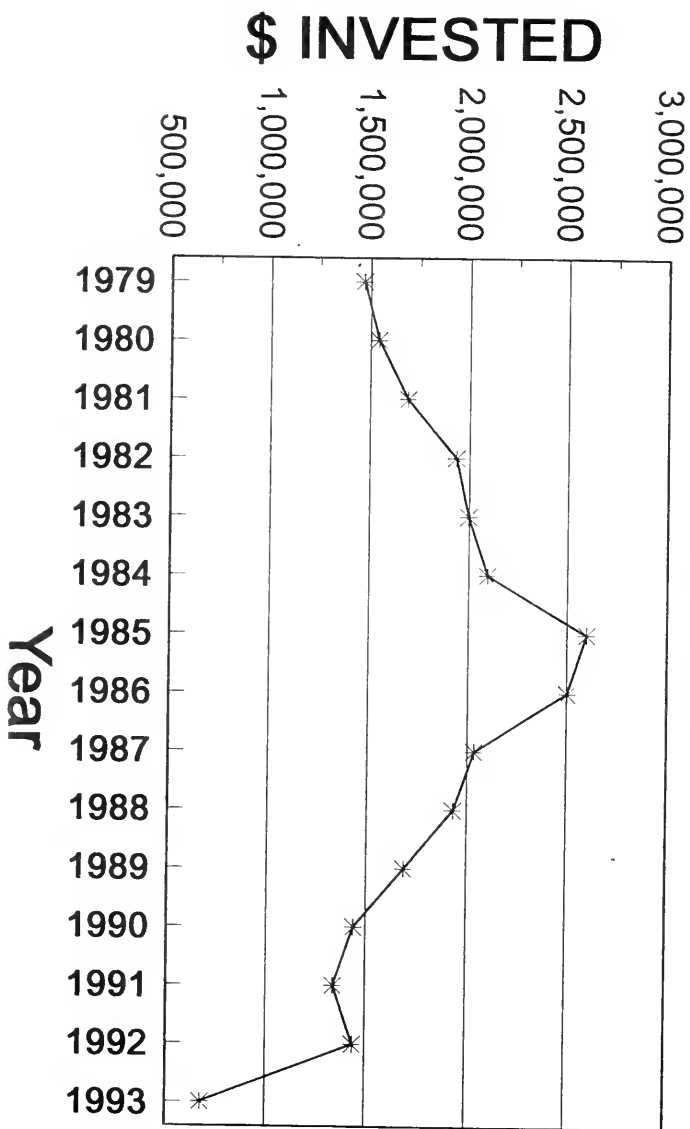




Figure 2. PRIA Fee and Gross Value of Production Fee, 1975-1996

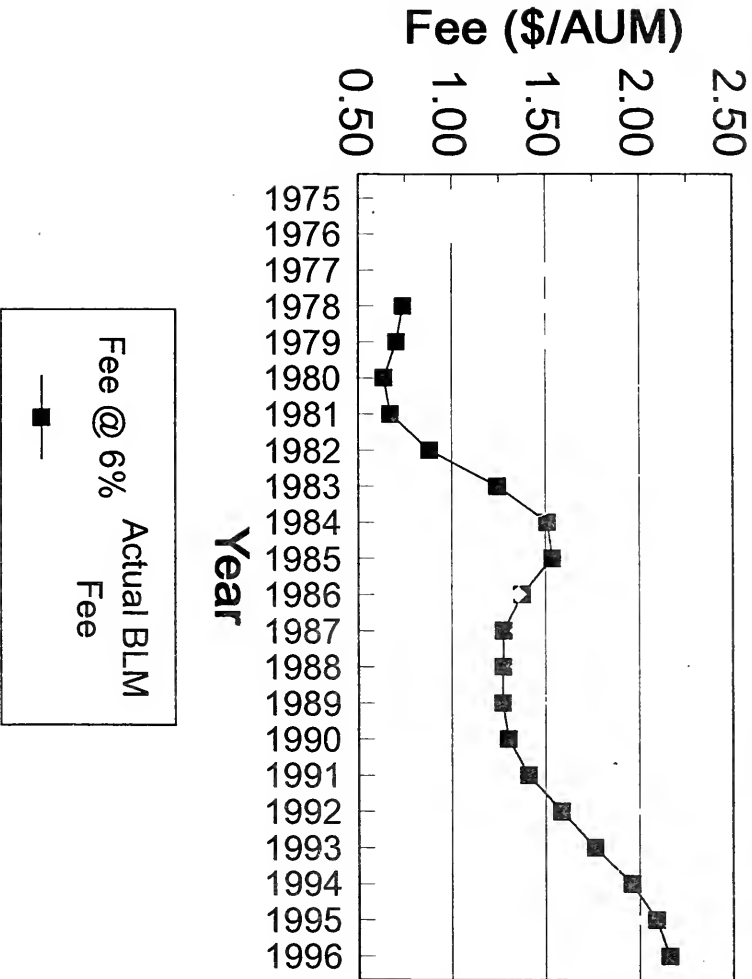
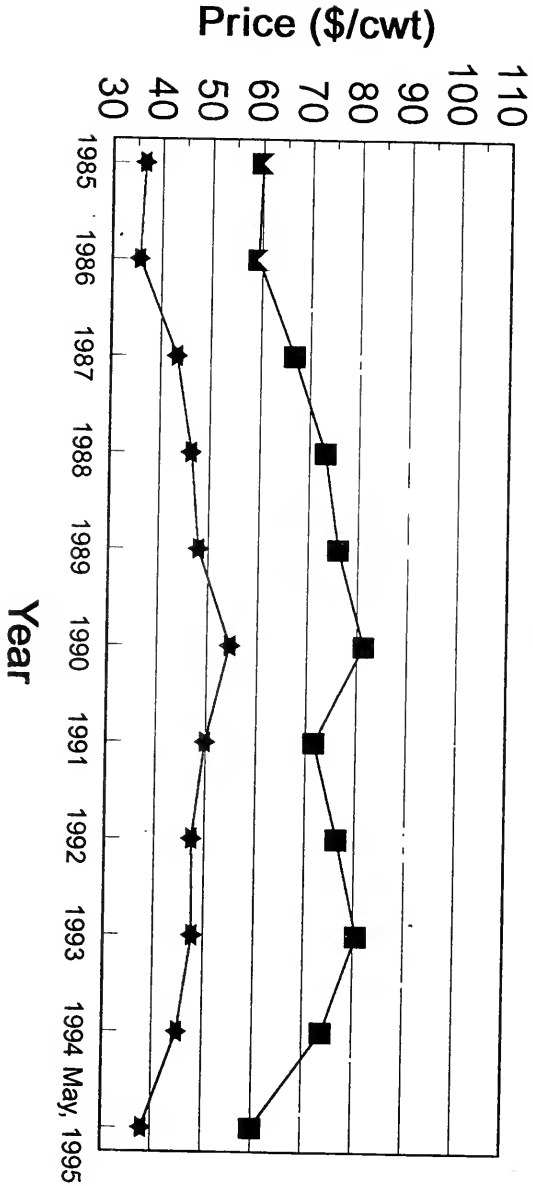


Figure 3. Cattle Prices, 1985-1995.



Source: USDA National Agricultural Statistics Service.

**TESTIMONY BEFORE THE HOUSE SUBCOMMITTEE  
THE HOUSE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS  
ON HR1713 THE LIVESTOCK GRAZING ACT  
by R. Max Peterson, Executive Vice President  
International Association of Fish and Wildlife Agencies  
July 11, 1995**

Thank you, Mr. Chairman, for the opportunity to share with the Committee the perspectives of the Association on HR1713, the "Livestock Grazing Act". We believe some reform of the regulations governing grazing use of public lands administered by BLM is long overdue, and have provided comments throughout the process. However, while we believe that there are parts of HR1713 which may be helpful, we also find that several areas of the bill present serious problems both to long term management of important public lands and to the relative rights and responsibilities of grazing permittees and other equally valid users of these lands. In short, we believe that HR1713 sets back the management of our public rangelands several decades and changes the focus to single purpose use which is contrary to the multiple purpose mandate. This would simply not be responsible stewardship of our public lands for our citizens, for whom they are held in the public trust.

We believe that considerable progress has been made in harmonizing different uses of public rangeland, while still maintaining the sustainability of the soil, water, plant and animal communities found thereon. Our concern is that this bill will polarize that effort and the many diverse users of rangelands by making grazing the apparent dominant use of public ranges and severely limiting managers' ability to make important and timely management decisions that are vital to long term multiple use of such lands. We believe that scenario is ultimately not beneficial to the interest of the livestock industry, rural communities or other uses of the public lands.

The International Association of Fish and Wildlife Agencies, founded in 1902, is a quasi-governmental organization of public agencies charged with the protection and management of North America's fish and wildlife resources. The Association's governmental members include fish and wildlife agencies of the states, provinces, and federal governments of the U.S., Canada, and Mexico. All 50 states are members. The Association has been a key organization in promoting sound resource management and strengthening federal, state, and private cooperation in protecting and managing fish and wildlife and their habitats in the public interest.

States have broad trustee responsibilities for the conservation of fish and wildlife resources within their borders, including on most Federal public lands. State fish and wildlife agencies share concurrent jurisdiction with the Federal government for migratory birds, anadromous fish and listed threatened and endangered species. Therefore, while the habitat on public grazing lands is managed by the BLM or USFS under multiple use laws, the States retain the responsibility for ensuring proper conservation stewardship of the fish and wildlife resources on those lands. Close cooperation and coordination between these agencies is obviously a necessity to ensure professional management of these lands and conservation of the fish and wildlife resources found thereon. Concurrent jurisdiction with respect to fish and wildlife, and

its application to U.S. Department of Interior administered lands, is also discussed generally in the Department of Interior Fish and Wildlife Policy: State-Federal Relationships, 43 CFR Part 24. U.S. Department of Agriculture policy (Secretary Memorandum at 9500-3) and regulation regarding management of the National Forests and Grasslands recognize that States have broad trustee and stewardship responsibility over fish and wildlife conservation and the regulation of their use, even on Federal lands.

We underscore this long and generally successful history of Federal-State partnership in managing fish and wildlife on Federal public lands to share with the subcommittee our member agencies' standing on the subject of the bill before the subcommittee. A critical issue for the States regarding HR1713 therefore, is ensuring that their role in the planning, implementation and monitoring of land management activities as a resource management partner with the BLM is maintained and enhanced in the long term interest of the public.

The International Association supports livestock grazing on public lands under the multiple use management concept, and has consistently worked in cooperation with other wildlife interest groups and livestock representatives to reduce grazing related conflicts and seek common ground. As an example, the International participated in a U.S. Forest Service sponsored activity review of rangelands in May of 1990 in cooperation with the Wildlife Management Institute, National Cattlemen's Association and Public Lands Council. The primary purpose of that effort was to identify problem areas between livestock and big game on western rangelands, with an ultimate objective of either eliminating, or at a minimum, reducing those conflicts. Participants were in unanimous agreement that the future health and sustainability of our rangelands was of paramount importance, and must be considered above all other factors. The accomplishments of these efforts have been summarized in an activity review report and subsequent series of action plans.

This initial cooperative effort led to a conference in Sparks, Nevada, during September of 1991, which was directed toward "seeking common ground on western rangelands." The conference, which was co-sponsored by the International, was attended by over 700 registered participants, most of whom were looking for answers to problems in seeking the desired common ground. A number of site specific examples from several different states were presented, which showed that conflicts can be resolved to the satisfaction of all interested parties. A substantial amount of goodwill and commitment to work to solve problems was generated by these efforts. HR1713 would be detrimental to such efforts.

Since the 1991 conference, a number of demonstration areas have been established in various states which show that multiple use objectives can be met for both livestock and wildlife needs, without serious confrontation, and in a timely manner. Perhaps the best example of this effort is the Habitat Partnership Program implemented in the State of Colorado between livestock interest groups and the State Division of Wildlife. The Colorado program not only addresses livestock and big game needs on public lands, but also takes into account the importance of private property for maintaining an abundance and diversity of wildlife in many areas.

We are hopeful that these efforts will help to maintain, restore and improve the condition of public rangelands, including riparian areas, so that these areas are better able to sustain healthy and diverse populations of fish and wildlife, while providing for livestock use and other appropriate multiple uses at levels that are compatible with maintenance of proper functioning rangeland ecosystems.

Unfortunately we believe HR1713 will impede rather than advance those efforts by apparently giving grazing permittees inappropriate priority over all other users and uses on public land, as well as giving permittees the primary voice in future management of these lands.

Therefore, we must oppose HR1713 unless it is substantially modified to reflect the multiple purpose nature of these important public lands and to include management provisions that ensure that such lands are managed in the public interest.

Turning to the specifics of HR1713, the areas in the bill we would suggest substantial change to include the following. We believe the bill should: 1) recognize the need for broad national multi-purpose guidelines for rangeland health and sustainable use under which state-, regional- or allotment-specific standards can be developed through local plans; 2) retain the flexibility for the BLM professional resource/land manager to include additional terms or conditions in the grazing permit or lease to enhance conservation efforts or facilitate other public use; 3) delete the exemption from NEPA or other Federal laws in the permit process; 4) further ensure and clarify legal standing for State fish and wildlife agencies and other (than grazing) users of public rangelands in the public participation process involved in preparation of and implementing land use plans; 5) provide that water rights will be acquired by BLM to provide water not only for grazing use but other multiple purpose use including water for fish and wildlife resource enhancement purposes; 6) establish provisions for conservation use of rangelands by permittees or lessees, and eliminate the prohibition on conservation use for longer than two years; and 7) delete Title II Grasslands, which removes National Grasslands from the National Forest System and thus raises serious question as to which laws would apply, how management would be funded and whether grasslands are to be managed under multiple use principles.

The Association has been and continues to be a long-standing advocate of allowing the professionally trained resource and land manager to make the decisions affecting land and resource uses of public lands. These professional managers have the background, experience and expertise to make the many detailed land management decisions including harmonizing multiple use of our public lands, and should be provided the latitude to do so under broad policy guidelines established by Congress. We concur that State or region-based standards of rangeland health are the most appropriate perspective from which to derive use conditions.

We have not advocated national standards because of the tremendous variety of terrain, climate, vegetation, soil, and uses of public lands. However, we do believe that Congress should establish broad guidelines for sustainable use of public rangeland for multiple purposes,

from which the State or region-based standards will derive. We believe that national guidelines for rangeland should include goals to ensure the long term sustainability and productivity of public rangelands, and will also affirm and demonstrate the Nation's commitment to proper conservation stewardship and multiple use of these public rangelands. The Association concurs with the four fundamentals of rangeland health as articulated in the BLMs revised grazing regulations, scheduled for implementation after August 21, 1995. These are as follows: 1) watersheds are in, or progressing toward, "properly functioning condition"; 2) ecological processes are maintained, or progressing toward attainment; 3) water quality meets state standards; and 4) habitats for threatened and endangered species are either restored, maintained or improving.

We would also strongly encourage that the bill direct that the development of State and regional standards for rangelands be done with the cooperation of the State fish and wildlife agency, and be consistent with comprehensive fish and wildlife resource and habitat plans of the State fish and wildlife agency. Most States have developed such plans which establish goals and objectives to ensure the sustainability or enhancement of fish and wildlife populations and the habitats on which they depend. Most of these effort also address fish and wildlife dependent recreational use and demand. These comprehensive plans can be of great assistance to public rangeland managers for basic fish and wildlife survey and inventory data, identifying and highlighting the role Federal public lands can and should play in meeting state-wide fish and wildlife resource and habitat objectives, and identifying the role of the Federal public lands in providing fish and wildlife dependent recreational use and environmental education. The public, including permittees, are active participants in the development of such plans.

The Association also strongly suggests that the grazing permit terms, which are limited by HR1713, clearly provide the authorized agency officer with the professional discretion to utilize other permit conditions which would enhance rangeland health, or facilitate continued multiple use of public rangelands. Our understanding of HR1713 is that it would limit the terms and conditions of permits to livestock grazing issues such as the kind and number of livestock, seasons and periods of use, allotments to be used, and amount of use (in AUMs). We further read the bill to prohibit the imposition of any term or condition in the grazing permit or lease other than these items. There are clearly other requirements developed during the allotment planning process that should be reflected in permits so that both the permittee and the authorized officer have a clear and common understanding of what is expected. We urge specific amendments to bill language which make it clear that the permit conditions should be tailored to Grazing Allotment plans. In this way, the professional resource manager could include conditions on the permit that would ensure the sustainability of rangeland condition. Also, to facilitate multiple use of public rangelands, grazing permittees, where necessary and appropriate, should be required, through permit conditions, to maintain fences or gates at appropriate places to permit other uses of the land. We believe that these permit decisions are best made specific to each allotment, by the agency resource manager, and will facilitate continued public use of rangelands by sportsmen and others.

The Association is also concerned about the language in HR1713 which raises the

standard for public involvement in grazing decision making and may thus be construed to limit State fish and wildlife agency involvement and participation, or that of fish and wildlife dependent recreational users of these public rangelands, such as hunters, anglers and birders. The standard in HR1713, as we read it, would require the "affected interest" to provide "substantiated evidence that the management of the public lands will affect the individual or organization". This significantly narrows the opportunity for public participation, and, in conjunction with the elimination of public involvement in development of Allotment Management Plans and in the development of state and regional standards and guidelines, could place other users, such as sportsmen, at a decided disadvantage in advocating for other than grazing use of these public lands. Further, without any additional qualification of what constitutes "substantiated evidence", or the term "will affect the individual or organization", this process could lead to extensive and expensive litigation to determine who qualifies as an affected interest. We encourage language be added to HR1713 to provide that State fish and wildlife agencies have legal standing under this Act to ensure that the agencies' concerns, comments, plans and recommendations are given full consideration by the Federal agency in decision-making relating to use of public rangelands. We also strongly believe that opportunities should be re-instituted to provide for participation by other rangeland users in the decision-making process. Otherwise, we will likely see continued serious controversy about the equity or fairness of other than grazing uses of the range resource.

The Association strongly encourages changes to HR1713 to clearly allow for public ownership of water rights on public rangelands, consistent with state law. For National Forest Lands the Forest Service has consistently obtained water rights for multiple purpose use including grazing. That procedure has worked well and should be followed on lands administered by BLM. We have long advocated water rights on Federal lands should be acquired under appropriate State and Federal law. However, because water on Federal public lands, including public rangelands, is used for many purposes in addition to grazing, specifically for fish and wildlife conservation and habitat enhancement, these water rights should be acquired in the name of the United States.

It is also our understanding that the language of HR1713 would effectively void or limit some existing federal water rights and may prevent perfecting some water rights whether held by BLM or other Federal agencies that have some connection to livestock grazing. We are vitally concerned that this language would virtually pre-empt the Federal land managing agencies ability to provide water for the enhancement of fish and wildlife habitat on public grazing lands. We concur that there should be adequate process to reconcile competing uses of water on public rangelands, but pre-empting Federal ownership of water rights is fundamentally inconsistent with proper stewardship of these public rangelands. We urge the restoration of the water rights ownership for BLM and other Federal agencies.

For both water rights and other improvements where the permittee makes a substantial investment there should be procedures such as those in the BLM proposed rules that permittee/lessee contributions are reimbursable should they cease to hold a permit or lease, or if the land is devoted to other public purposes. We do, however, disagree with the provision

in HR1713 which would give the federal government only a proportional title to the improvements based upon the investments made respectively by the rancher and the government and allows maintenance to be included in determining proportionate ownership. We firmly assert that this is not good public policy, and is tantamount to someone leasing or renting out a residence, and granting the lessee partial title to the property proportional to maintenance and improvements made to it even though the rental rate may reflect such tenant responsibilities. Reimbursement for improvements under appropriate circumstances is fiscally sound public policy, but, since these are public lands of the United States, all improvements should remain under title to the United States.

Finally, we are disappointed that HR1713 contains disincentives for conservation use of these public rangelands by the permittee or lessee. We firmly believe that conservation use should be encouraged. We further believe that most landowners want to be good stewards of their land, including those properties that they rent or lease. Provisions for conservation use of public rangelands would provide ranchers with an additional tool, available at their discretion, to conserve and restore other rangeland values and uses such as big game populations, healthy fish habitat, habitat for upland ground nesting birds and other wildlife species. Further, some State fish and wildlife agencies, or non-governmental conservation organizations, have acquired the necessary base properties and associated grazing permits and leases to ensure conservation use of key public rangelands. Some of these public rangelands provide essential habitat for fish and wildlife species, and/or valuable opportunities for public fish and wildlife dependent recreational use where it may otherwise be unavailable. We strongly support the continuation of these conservation provisions, and encourage the adoption of language in the bill to endorse conservation use. Further, we strongly urge that the language which makes conservation use for more than two years a prohibited act be deleted; this simply sends the wrong message about stewardship of these public lands.

In summary, the Association believes that under proper management integrated multiple use of public rangelands is compatible with livestock grazing, and that these objectives can and should be accomplished consistent with maintaining the health and sustainability of these rangelands. We believe that our recommended changes to HR1713 will improve the integration of all uses of these public lands, ensure participation by the appropriate Federal and State agencies in the long-term management and enhancement of these lands, and provide opportunities for our citizens to continue to participate in the decision-making process for the future of their public rangelands. Unfortunately, we believe that HR1713, as introduced, will be opposed by the vast majority of the public and will in the long run not be a positive step for either grazing permittee or other uses of the public lands.

Thank you for the opportunity to share our perspectives and I would be glad to address any questions you might have.





# Wildlife Management Institute

1101 14th Street, N.W. • Suite 801 • Washington, D.C. 20005  
Phone (202) 371-1808 • FAX (202) 408-5059

Statement of Lonnie L. Williamson  
before the  
Subcommittee on National Parks, Forests and Lands  
House Committee on Resources  
on  
H. R. 1713 (Livestock Grazing Act)  
July 11, 1995

Mr. Chairman:

I am Lonnie L. Williamson, vice-president of the Wildlife Management Institute, which is headquartered in Washington, D.C. The Institute was established in 1911 and is staffed with trained and experienced wildlife managers and scientists located throughout the country.

Although we agree with some of the findings in H.R. 1713, we believe that most of the bill's provisions are divisive and, thus, we oppose enactment. This measure would serve foremost to drive a wedge between wildlife conservationists and wildlife users, including hunters and the public land livestock community. Since these groups depend to a large degree on federal rangelands, they should be working closer together rather than becoming polarized.

We strongly support the finding in H.R. 1713 that "maintaining the economic viability of the western livestock industry is essential to maintaining open space and habitat for big game, wildlife and fish...." Private lands provide significant amounts of winter range and other habitat for wildlife. This important habitat could be lost if ranching were to be discontinued and the land developed. Since ranching provides this benefit to a public resource, wildlife interests should be aware of and amenable to rancher needs and desires. For example, we agree with the ranchers' desire for more permit tenure in order to plan business operations better, and we support that part of H. R. 1713. As wildlife conservationists and sportsmen, we should do our best to help public land ranching continue. By doing so, there is reciprocal benefit. We should be partners, not antagonists, because wildlife and livestock of necessity should share public rangelands.

Unfortunately, there have been and are what we view as extremists in both the wildlife and livestock camps. These people seem always to prefer confrontation rather than to seek common ground upon which all interests may benefit. Because H.R. 1713 apparently would disenfranchise wildlife to a large degree on public rangelands, the bill will serve as a focus for more unnecessarily rancorous bickering and finger-pointing.

The threats to wildlife and its use appear throughout H.R. 1713. Overall, the proposal seems to make livestock grazing the dominant use of public lands. It does this by excluding sportsmen and conservationists from the decision-making process, allowing permittees to operate above conservation laws, giving livestock essentially all public land forage, prohibiting reductions in livestock use for any reason, disallowing ranchers to reduce allotment use voluntarily for conservation purposes, prohibiting scientific method to determine if permittees are in compliance with the rules, allowing water developments now available to wildlife to be fenced for livestock use only, and reverting national grasslands primarily to agricultural use and subjecting them to disposal.

We believe that this bill is a serious threat to wildlife and its recreational use. Livestock grazing cannot become the dominant use of rangelands without wildlife suffering terribly, which has serious economic as well as conservation consequences.

The Institute was organized by the sporting arms and ammunition industry 84 years ago. It has been mainly funded by that industry since that time, with the sole purpose of restoring and improving the management of wildlife resources in North America. More than 80 percent of the industry's business depends on healthy wildlife populations. Federal public land is especially important, providing most of the habitat for such species as elk, bighorn sheep, mule deer, pronghorn and prairie grouse. The industry's 20,000 employees and \$600 million payroll have a major economic interest in how wildlife is treated on public land.

Considerable research in recent years into the economics of fish and wildlife and their use supports our long-held contention that these resources are among this nation's most valuable assets. Fishing in America generates \$19.7 billion in personal earnings, \$963.8 million in federal income tax, \$398.2 million in state income tax, and \$1.3 billion in state sales tax annually. Hunting has a total economic impact of \$34 billion annually in the U.S., which exceeds the sales of such companies as Coca Cola, Caterpillar and RJR-Nabisco. For every 50 hunters in the U.S., enough economic activity is generated to create one job, which works out to 380,000 jobs nationwide.

Add to the sportfishing and sporthunting dollars the economic activity generated by nonhunting recreational uses and commercial uses, far more than 1 million jobs are dependent on how well governments manage basic resources in the public trust. Federal public lands account for a large part of this economic engine.

Instead of pursuing enactment of H.R. 1713 and forcing the outdoor recreation industry, conservationists, sportsmen and the general public to battle public land graziers, we urge the Committee to lend strong support to a budding range management effort that is supported by all public land interest groups and has proven itself over a number of years. The program is called "Seeking Common Ground." It originated from a symposium held several years ago aimed at solving livestock/big game conflicts on public and private land. Following that symposium, the U.S. Forest Service, Bureau of Land Management, state wildlife agencies, livestock groups, wildlife conservation groups, sportsmen's organizations, and the National Fish and Wildlife Foundation developed a partnership whereby range management problems are addressed at the local level by all concerned and the needed work funded by all concerned. The program has been nothing short of spectacularly successful. A brochure describing the "Seeking Common Ground" movement is attached.

Mr. Chairman, for the "Seeking Common Ground" approach to become standard operation, it needs the support of this Committee and Congress. No legislation is required, but the Committee could serve significantly to begin with oversight hearings that inform the members and relate how all interests really can support one another on public rangelands. These people need to be showcased in order to encourage more to participate in the program. Your interest also would encourage those of us in the private, professional conservation community to continue investing money and time in assuring productive rangelands for the enjoyment and prosperity of all users.

We would be pleased to work with the Committee and others to make "Seeking Common Ground" apply to all public rangelands.

Thank you for considering our views.



## SEEKING COMMON GROUND

### Partnerships to the Future

LEADERSHIP IN

*Communications • Cooperation  
Science*

*Collaborative Learning • Adaptive Management  
Ecosystem-Based Stewardship*



# Join "Seeking Common Ground"

Over the last 10 years, the National Wildlife Federation has been working to bring together people from different backgrounds and interests to find common ground on issues that affect us all.

Now, we're looking for more people to join our efforts. We want to hear from you about the issues that matter most to you and how we can work together to find solutions.

Whether you're a landowner, a rancher, a farmer, a hunter, a conservationist, or just someone who cares about the land, we want to hear from you. Please contact us today to learn more about the "Seeking Common Ground" project.

For more information, please contact the National Wildlife Federation at 1111 17th Street, N.W., Washington, D.C. 20036. Or call 1-800-835-8771. We'll be glad to help you find common ground on the issues that matter most to you.



## Where are the Demonstration Projects?

### Arizona:

The Arizona Wildlife Federation is currently working with the Arizona Department of Game and Fish to develop demonstration projects in the state.



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These projects will address the use of both public and private lands to improve Arizona's elk habitat and reduce conflicts with other habitat uses.

### Colorado:

The Colorado Wildlife Federation is currently working with the Colorado Department of Game and Fish to develop demonstration projects in the state.

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### Colorado:

The Colorado Wildlife Federation is currently working with the Colorado Department of Game and Fish to develop demonstration projects in the state.





# WHY IS SEEKING COMMON GROUND?

"Seeking Common Ground" is a national opportunity for public lands support demonstration projects that:

- promote the conservation of range lands
- demonstrate the benefits of riparian conservation
- demonstrate the benefits of riparian conservation
- promote the conservation of riparian resources



## Common Threads to "Common Ground"

**Improved Communications** • Successful projects where all parties can communicate effectively.

**Cooperation and Mutual Respect** • Successful projects where all parties work together to find a common ground that respects the values and interests of all parties involved.

**Application of Sound Scientific Management on the Ground** • Successful projects where knowledge is already available and it can be applied to the project.

**Collaborative Learning** • Most projects are long-term projects and require a long-term commitment to the project. All parties work together to find a common ground that respects the values and interests of all parties involved.

**Adaptive Management** • All parties must remain flexible so they can adapt to the changing conditions and then manage the project in a way that respects the values and interests of all parties involved.

**Ecosystem-Based Stewardship** • Range land conflicts can best be resolved if a common approach that considers the entire ecosystem. The approach should be based on the values and interests of all parties involved.



## Why?

"Seeking Common Ground"

is a national opportunity for public lands support demonstration projects that:

- promote the conservation of range lands
- demonstrate the benefits of riparian conservation
- demonstrate the benefits of riparian conservation
- promote the conservation of riparian resources

## NATIONAL COMMON

**Current Key National Partners and Members of the "Seeking Common Ground Workgroup"**

- USDA Forest Service (202) 205-1462
- USDI Bureau of Land Management (202) 653-9195
- National Fish and Wildlife Foundation (202) 657-0166
- International Association of Fish and Wildlife Agencies (202) 624-7890
- American Farm Bureau Federation (312) 599-5700
- National Cattlemen's Association (702) 738-9214
- Public Lands Council (702) 738-9214
- Rocky Mountain Elk Foundation (800) 225-5355
- Wildlife Management Institute (202) 371-1808

Statement of James Earl Kennamer  
 National Wild Turkey Federation  
 before the  
 Subcommittee on National Parks, Forests and Lands  
 House Committee on Resources  
 on  
 H.R. 1713 (Livestock Grazing Act)  
 July 10, 1995

Mr. Chairman:

I am James Earl Kennamer, Vice President for Conservation Programs of the National Wild Turkey Federation (NWTf), a 120,000 member not-for-profit organization dedicated to the conservation and wise management of the wild turkey and its habitats, I would like to take this opportunity to discuss the Senator Domenici proposed Livestock Grazing Act H.R. 1713. The NWTf has serious concerns with this Act.

The National Grasslands were originally purchased with public money. However, H.R. 1713, if passed, will effectively privatize these lands for a few ranchers without requiring them to pay for the lands or even to pay taxes on them. We do not support selling of these lands, as they were originally purchased to benefit the nation's citizens, not just a select few.

We are concerned with establishing livestock industry as the dominant management objective. The Act sets management objectives to "promote secure occupancy and economic stability of farms". Under existing management, it is difficult enough to manage wildlife habitats on grazing allotments; passage of this Act would make it impossible to continue even these small programs.

We are concerned that H.R. 1713 would require grazing leases to be issued. Virtually all of the National Grasslands are currently in grazing allotments, even without any requirement to issue grazing leases. Under the proposed bill, areas that have unique recreational potential such as badlands and buttes, could never be managed with recreation as the prime objective. Recreational opportunities such as the development of fish ponds would be lost under the direction in this Act.

This Act requires that grazing leases be issued in "cooperation and coordination" with grazing associations. Nowhere are the state wildlife agencies included in any public involvement in the management of these lands. For some states such as North Dakota these lands (Little Missouri National Grasslands) are truly their recreational wilderness.

Under the provisions of H.R. 1713, recreational hunting and fishing could be prohibited without a single hunter or fisherman having a chance to be heard, much less involved in the decision.

These lands were once in private hands and the national government purchased them to correct "maladjustments". The intent was to manage for stability of the land and to include grazing and wildlife habitats as primary concerns. The proposed Livestock Grazing Act subverts this intent by eliminating wildlife as a management objective. It also ignores the interests of the rest of the public in the United States who helped pay for these lands and who have differing ideas on how they should be managed.

The NWTf recognizes the need for economic stability, particularly in small communities. We support efforts to strengthen local economies, but not by sacrificing other public values to one dominant use.

We believe that the Livestock Grazing Act (H.R. 1713) is not in the best public interest and should not be passed.

Thank you for the opportunity to be heard on this issue.



# Foundation for North American Wild Sheep

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### Karen Werbelow

Executive Director

Statement of Karen Werbelow  
before the  
Subcommittee on National Parks, Forests and Lands  
House Committee on Resources  
on  
H.R. 1713 (Livestock Grazing Act)

Honorable Don Young, Chairman

I am Karen Werbelow, Executive Director of the Foundation for North American Wild Sheep, which is headquartered in Cody, Wyoming. The Foundation was incorporated in 1977, and is one of the leading wildlife conservation organizations in North America.

The threats to wildlife and its use of public land appear throughout (H.R. 1713). Overall, the proposed bill seems to make livestock grazing the dominate use on public lands. It does this by excluding sportsmen and conservationists, from the decision making process, allowing permittees to operate above conservation laws, giving livestock essentially the great majority of public land forage, prohibiting reductions in livestock use for any reason. It prohibits ranchers from reducing allotment use voluntarily for conservation purposes, and prohibits scientific technology to determine if permittees are in compliance with rules governing water developments now available to wildlife, to be fenced in for livestock use only. It reverts national grassland usage primarily to agriculture and subjects them to disposal.

We feel this bill is a serious threat to wildlife and recreational use. Livestock grazing cannot become the dominate use of rangelands without a longterm sustained loss of wildlife; which would have serious economic as well as conservation consequences. Considerable research in recent years into the economics of fish and wildlife use supports our long known belief that these resources are among our nations most valuable assets. Fishing in America generates 19.7 billion dollars in personal earnings, 963.8 million dollars in federal income tax, and 392.8 million dollars in state income tax and 1.3 billion dollars in state sales tax per year. Hunting has a total economic impact of 34 billion dollars annually in the United States which exceeds the sales of companies such as Coca-Cola, and RGR-Nabisco. For every 50 hunters in the United States, enough economic activity is generated to create one job, which is equal to thousands of jobs nationwide.

Inclusive of fishing and hunting revenue, there is also large economic activity created by recreational non-hunting and commercial uses. Federal public lands account for a major part of this economic revenue. More than 1 million jobs are dependent on how well these lands are governed and managed as basic public resources.

A NONPROFIT ORGANIZATION

Instead of pursuing the enactment of (H.R. 1713), and forcing the outdoor recreation industry, conservationists, and the general public, into a dispute with public land grazers, we urge the committee to support a range management plan that is conducive for the interest of all public lands groups which include, conservationists, sportsmen, outdoor recreationists, and the public land grazers

Do not allow public range management to be set back fifty years Do not allow (H R 1713) to turn much of America's public lands over to the grazing community Support responsible land management and prudent resource conservation Vote against (H R 1713)

I thank you for this opportunity on behalf of The Foundation for North American Wild Sheep.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Werbelow". The signature is fluid and cursive, with the first name "Karen" being more prominent than the last name "Werbelow".

Karen Werbelow  
Executive Director

## DOMINANT USE ANALYSIS FOR THE LIVESTOCK GRAZING ACT

The following analysis is provided in response to questions raised in the July 11, 1995 Subcommittee on National Parks, Forest and Lands hearing. Many provisions of the Livestock Grazing Act appear to elevate one use, livestock grazing, over other multiple uses on the public lands. The following references illustrate sections of the bill which, if enacted, could be interpreted to result in livestock grazing dominance or preferential treatment for livestock grazing on the public lands at the expense of other uses.

### SUBTITLE A - GENERAL PROVISIONS

#### Sec. 103 OBJECTIVES

(2) enhancement of productivity of federal land by conservation of forage resources and reduction of soil erosion and by proper management of other resources such as by control of woody species invasion.

Emphasis is on production which implies livestock use rather than the overall health of the land. Healthy rangeland resources are productive for all uses. Rangeland resources managed for enhanced production of forage for livestock may not be productive for other resource uses.

(3) stabilization of the livestock industry dependent on the public lands.

Emphasis on stabilizing one industry dependent on the public rangelands conflicts with the multiple use concepts of FLPMA which, among other things, calls for a combination of diverse resource uses.

#### Sec. 104 DEFINITIONS

(19) Grazing Preference- is the number of AUMs of livestock grazing attached to the base property.

The TGA recognizes grazing preference as an order of priority for individuals to be eligible to receive grazing privileges. This provision would be a first time link by a statute to the term "preference" as a number of AUMs.

## Sec. 106 LAND USE PLANS

(d)(1) livestock grazing activities and management actions not clearly prohibited by the LUP are considered to be in conformance with the LUP.

Provision applies only to livestock grazing activities and management actions; non-grazing uses may require costly and time consuming LUP amendments to be considered in conformance with LUP.

(d)(2) Livestock grazing activities and management actions shall not require consideration under NEPA in addition to those supporting the LUP.

Short circuits analysis and public input process. Provision applies only to livestock grazing activities and management actions, actions in other programs will require compliance with NEPA.

(e) exempts renewal of permit or lease consistent with LUP from review under NEPA.

NEPA exemption for renewals does not provide a process to factor in multiple uses needs and public views as required for other activities.

## SUBTITLE B - QUALIFICATIONS AND GRAZING PREFERENCE.

### Sec. 111 MANDATORY QUALIFICATIONS.

(1) requires that applicant be engaged in the livestock business.

Requires that applicant be currently engaged in livestock business. Strictly enforced, it would exclude new operators trying to get a start in the livestock business, as well as lien holders, major corporations, insurance companies and conservation groups all of which currently hold permits and licenses.

## Sec. 113 GRAZING PREFERENCE

(a)(2) after coordination with **applicant only** AO shall specify length of time base property shall be considered capable of supporting livestock.

Period of time base property is capable of supporting livestock is directly related to the period of time and the seasons of use of Federal land. Exclusion of other interested parties and new definition of CCC gives priority consideration to livestock use over other uses.

(c)(4) transferee may elect to accept or reject the terms and conditions of the terminating grazing permit and any related cooperative agreement or Range Improvement Permit or to accept those terms and conditions with such modifications as the transferee may request and the authorized officer approve or with such modifications as the AO may require.

Provides the transferee with unprecedented option to accept only the terms and conditions he chooses in the permit or lease. Terms and conditions which have been carefully developed with prior operators to address allotment specific conditions could be rejected, resulting in the requirement for new monitoring, negotiations etc. to develop terms and conditions and no progress toward dealing with resource needs or problems terms and conditions were developed to address.

(d) requires coordination with only permittees/lessees in designation and adjustment of allotment boundaries.

Adjustment of allotment boundaries often affects other interests as well, most notably state land offices who may administer lands within the allotment boundary. Requirement does not provide for CCC with other parties.

## Sec. 114 CHANGES IN GRAZING PREFERENCE STATUS.

(b) requires that a change in stocking rate shall be supported by monitoring, as evidenced by rangeland studies conducted over time, and as is specified in LUP or as necessary to manage, maintain, or improve rangeland productivity.

Sound resource decisions can often be made without costly long term monitoring. The requirement for long term monitoring in all cases serves to delay decision making at the possible expense of the resource. Requirement places emphasis on productivity rather than rangeland health.

(d)(1)(B) action shall be taken to close allotments or portions of allotments or modify grazing use for "emergency situations".

(d)(2) Permanent suspension-requires evaluation and implementation of all reasonable and viable alternatives prior to reducing active use to improve rangeland productivity.

(e)(1) requires that change in active use greater than 10% be phased-in over 5 years.

(e)(2)(C) requires coordination with land grant university and state department of agriculture when monitoring data not available.

Even though this contemplates action to protect resources, there is no provision for immediate implementation of decisions. As a result, tools to address "emergency situations" involving grazing decisions will be hampered.

"Permanent suspension" is a contradictory term. Suspension is defined in the bill as the temporary withholding of grazing from active use. Requirement to evaluate all uses and *implement* all reasonable and viable alternatives and consider all other uses prior to making adjustments, serves to delay action necessary to deal with resource problems and gives preference to grazing over other uses.

Gives preference to livestock operations over the health of the resource by limiting the managers flexibility to immediately deal with critical resource problems.

Requirement to coordinate as directed likely would result in delay of needed actions as well as increased costs. Bureau has professional resources staff capable of developing monitoring in consideration of all resource values while state department's of agriculture do not have the expertise to address multiple use considerations required by FLPMA.

## SUBTITLE C - GRAZING MANAGEMENT

### Sec. 121 ALLOTMENT MANAGEMENT PLANS.

(a) AMPs are to be developed in coordination with lessees/permittees, landowners, RACs, GACs and states with land in the allotment.

Implementation of AMPs can have serious effect on other resource values and uses. Isolation of development of AMP from other uses can result in narrow use considerations.

## Sec. 122 RANGE IMPROVEMENTS.

(a)(5) requires terms and conditions to provide incentive for investing in range improvement.

Incentives are undefined. Normally the incentive is to achieve the management objectives and/or efficiencies. This language could be interpreted to mean reduced fees, additional active use, or consideration of expenditures on improvement in calculating fees, any of which is unique to grazing among uses of the public lands.

(b)(5) livestock use of stock ponds shall be controlled by permittee or lessee holding improvement permit.

Confusing definition of livestock in this bill seems to include wild horses and burros. This provision could cause confusion resulting in operators attempting to limit the use by other livestock i.e., wild horse and burros. If so, this could limit use by wildlife, as well.

(c) limits consideration of stipulations to standards and design, construction and maintenance criteria.

Bill does not provide for stipulations other than standards and design, construction and maintenance criteria. Limitation on stipulations affecting other resource values does not protect other uses that are affected by range improvements.

## SEC. 123 MONITORING

(a) limits monitoring to permittee, qualified personnel, and consultants hired by the permittee or agency.

Automatic qualification for permittee regardless of training or experience. Often times permittee does not actually run the operation. It is unclear if automatic qualification applies to permittee's agent as well. Agencies typically use resource specialists other than range conservationist to conduct routine monitoring and compliance which would be prohibited by this section. Prohibits the inclusion of observations or information collected by others. Credible information (photos for example) should be able to be considered from other sources including hunters, fisherman, recreationists, etc. The determination of credible data must reside with the land manager.

(b) requires that the permittee be invited to be present for all monitoring before data/information can be placed in the file.

Defeats the purpose of some inspections e.g., trespass. A permittee could effectively block any monitoring or inspection by simply saying he or she was unavailable, thus leading to delays in acquiring monitoring data and ultimately grazing decisions.



**SEC. 124 WATER RIGHTS**

requires water rights connected with livestock grazing to be acquired, perfected, owned, controlled, maintained, administered or transferred in accordance with state law.

Bill language is very sweeping and is not confined to water rights used specifically for grazing. All kinds of water uses (such as firefighting, erosion control, wild horse and burro management) might be swept into broad usage of the term "connected with". It is not clear what the effect will be of directing the Secretary to comply with State law regarding the administration and use of water. For example, what if State law does not recognize or permit the use of water for wildlife or recreation purposes in ways considered necessary by Federal managers.

**SUBTITLE D - AUTHORIZATION OF GRAZING USE.****Sec. 132 GRAZING PERMITS OR GRAZING LEASES.**

(b) establishes term of permit as 15 years.

Extends term of permit established in TGA by 50%. Term of permit has never been an apparent problem in securing loans. Length of permit gives livestock operators privilege enjoyed by no other public land users.

**Sec. 135 OWNERSHIP AND IDENTIFICATION OF LIVESTOCK**

(c) prohibits imposition of marking or tagging requirements.

Renders trespass investigation nearly impossible in certain cases.

## Sec. 136 TERMS AND CONDITIONS

(b) prohibits imposition of additional terms and conditions (T&C) except requirement to comply with AMP.

Restricted to T&C directly related to livestock management. Prohibits use of T&C to assure compliance with standards and guidelines or protection of other resource values in support of healthy rangelands. This conflicts with the provisions in FLPMA.

(c) requires coordination with only permittees and lessees in modifying T&Cs when use does not meet LUP or management objectives.

Does not provide for input regarding other resources or from resource users in modification of T&C to meet LUP or management objectives.

## Sec. 137 FEES AND CHARGES

(b)(2) progeny born of an animal on which fee is paid are not counted and no fee charged.

As written, could be interpreted to allow an operator to pay no fees as herd is culled and replaced by progeny born to livestock for which a fee is paid.

## Sec. 138 PLEDGE OF GRAZING PERMITS OR GRAZING LEASES AS SECURITY FOR LOANS

(a) requires renewal of permit or lease when it has been pledged as security for a loan for a period of 15 years.

Articulates a presumption of renewal thus making it difficult to assert non-compliance with even the provision of Title I or establish non-compliance with relevant regulations or renew for a period of less than 15 years when land is scheduled for disposal for other public purposes under sec 115.

## SUBTITLE E - CIVIL VIOLATIONS AND FAILURES OF COMPLIANCE

### Sec. 141 CIVIL VIOLATIONS AND FAILURES OF COMPLIANCE

- |  |   |
|--|---|
| <p>(a)(2) subjects permittee/lessee who violates other Federal law to penalty under that law only.</p> | <p>Prohibits AO from taking action against permit when violation is related to grazing activities. This is like requiring a landlord to honor a lease when the property is being used for illegal activities.</p> |
| <p>(b) requires that persons knowingly and willfully violate the prohibited acts.</p>                  | <p>Establishes ignorance as an acceptable excuse.</p>   |
| <p>no penalty for failure to pay fees.</p>   | <p>No civil penalty for failure to pay fees and leaves trespass as the only course of action available to the AO. Monitoring requirements make trespass investigation nearly impossible.</p>                      |

## SUBTITLE F - UNAUTHORIZED GRAZING USE

### Sec. 151 LIABILITY FOR DAMAGES

- |  |   |
|--|---|
| <p>(b)) requires impoundment be conducted in accordance with State Law or forfeit impoundment costs.</p> | <p>Attempts to restrict Federal administration of livestock grazing to state law.</p> |
|--|---|

## SUBTITLE G - PROCEDURE

### Sec 172 House version (162 Senate version) Protests

- |  |  |
|--|--|
| <p>provides for only applicant, permittee/lessee to protest a proposed grazing decision.</p> | <p>Language might be interpreted to provide no opportunity for other parties to protest a proposed decision which may adversely affect their interests. Such an interpretation would have the effect of disenfranchising some of our most long-term partners, such as the State fish and game departments.</p> |
|--|--|

## Sec. 164 APPEALS

(a)(1) provides for only applicant, permittee/lessee to appeal a decision.

If language is interpreted to exclude parties whose interests are adversely affected then this has the effect of disenfranchising some of our most long-term partners, such as the State fish and game departments.

(a)(2) requires that the proponent of the rule prove their case by the standard of the preponderance of the evidence.

Establishes a unique appeals standard for livestock use which could invite appeals, increase the costs of defending the agency, and increase the need for even more paperwork.

(b)(1) appeal suspends the effect of the decision.

Effect of filing an appeal would be to cause the decision to be suspended, perhaps for years. Unique to livestock grazing. Staying the decision is potentially harmful to resource conditions, provides no opportunity to the AO to take immediate action where warranted.

(b)(2)(A) provides for DM to order decision on **grazing permit application** to remain in effect where imminent and irreversible damage would result.

Rarely if ever is action as a result of a decision on a **grazing permit application** likely to cause such damage.

## SUBTITLE H - ADVISORY COMMITTEES

### Sec. 177 GRAZING ADVISORY COUNCILS

(a) provides for establishment of Grazing Advisory Board where requested by a majority of permittees.

No other public land user has an advisory body devoted solely to that use.

This report was requested by the BLM and Forest Service from the USDA Economic Research Service to analyze the fee proposal contained in the Livestock Grazing Act. The assessment was requested from the ERS due to their expertise in the area of economic analysis.



United States  
Department of  
Agriculture

Economic  
Research  
Service

1301 New York Avenue NW  
Washington, D.C.  
20005-4788

July 28, 1995

**INFORMATIONAL MEMORANDUM FOR TIM SALT, WESTERN RANGELANDS  
TEAM LEADER, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE  
INTERIOR**

FROM: John Dunmore *Milton Eisenhower*  
*for* Acting Administrator

SUBJECT: Grazing Fee Analysis  
(Staff Analysis No. 95-380)

We are responding to your request for assistance in preparing an analysis of the fee proposal in the Livestock Grazing Act. Our analysis, which is attached, was prepared by Ken Mathews, Jr., (219-0255). It follows the list of items in your request.

Attachment

### Grazing Lands Act (S. 852, H.R. 1713)

#### Briefly discuss this formula in relationship to past fee studies:

The General Land Law Revision Act (1891) allowed setting aside forest reserves from the unreserved public domain; these lands later became FS (in 1905) and BLM (in 1934) lands. The public domain lands had been grazed by introduced livestock before 1891, but fees have been charged for grazing privileges since the 1906 grazing season when the Secretary of Agriculture set fees at a third of what comparable private grazing was worth. The fees were originally charged to protect forest reserves and finance range administration.

The base fee of \$1.23 per animal unit month (AUM) was established in 1969 as the residual value of forage after the difference between the costs to producers of raising cattle on private leased lands versus on public lands was accounted for in 1966. The base of \$1.23 was derived from results of the 1966 Western Livestock Grazing Survey. The base fee was to equalize the costs of raising cattle on public and private lands. This fee was to be updated according to a single index of the annual changes in private land lease rates (forage value index-FVI—NASS gathers data for this index).

Congress, in 1978, through the Public Rangelands Improvement Act (PRIA), took over fee structure responsibilities from the Secretaries of Agriculture and Interior. The fee was modified to reflect producers' "ability to pay" by adding an index of beef cattle price changes (Beef Cattle Price Index-BCPI) and an index of changes in costs of production (Producer Price Index-PPI). The PRIA formula has been criticized for double counting ability to pay. In 1985, the fee structure was set by Executive Order to follow the PRIA formula, but with a \$1.35 per animal-unit-month (AUM) floor. Fees are now set through the formula developed legislatively in 1978 (PRIA) and continued beyond the 10-year trial period through Executive Order No. 12548 (February 14, 1986). The formula fee for grazing public lands in 1995 is \$1.61, down from the 1994 fee of \$1.93. The fee formula proposal that was earlier attached to but dropped from the Administration's Rangeland Reform '94 would have raised the base fee to \$3.96 and shifted the base year to 1996.

Recently, identical bills that would alter the way the public lands are administered and require a new fee formula were introduced in the House (H.R. 1713) and Senate (S. 852). The formula proposed in the legislation is based on a three-year moving average of value of production multiplied by an arbitrary .06 and divided by 12. The fee according to the proposal for 1993 would have been \$2.16 and a projected fee of \$1.96 for 1995.

#### Define and analyze the basis of a cost of production element in the formula:

The cost of production (COP) element in the formula, "total, gross value of production per bred cow," comes from Economic Indicators of the Farm Sector--Costs of Production: Major Field Crops and Livestock and Dairy, published by the Economic Research Service

(ERS) of the U.S. Dept. of Agriculture. These "total, gross value of production" per bred cow estimates are derived by multiplying pounds of various categories of cattle and calves by appropriate prices, then dividing the aggregate total by the number of cows represented in the aggregate. Current COP estimates are based on the 1990 Cow/Calf version of the 1990 Farm Costs and Returns Survey for the beef cow/calf enterprise. There are no current plans or funding for additional FCRS cow/calf surveys because cow/calf is not a program commodity for which annual COP estimates were legislatively mandated. Only mandated program commodities are currently being surveyed and then only once every 3 to 5 years. Estimates published in August 1994 for the 1992 commodity year are the most recent cow/calf estimates. They were derived by applying indexes to the 1990 data, the standard procedure for updating COP estimates. To use the formula in the legislation, projections of gross value of production would be required for the most recent two years since observed estimates usually lag the current year by about two years.

**Analyze and discuss the market sensitivities of cost of production data:**

During nonsurvey years, the gross value of production elements of the COP estimates are base-year estimates indexed according to average annual price changes following the base year. Using annual average annual price changes removes within year highs and lows. This means the gross value of production per beef cow does not reflect the within-year price changes. The result is a more stable series that reflects the longer term year to year price changes occurring in the beef cattle industry. By incorporating a 3-year average, the proposed fee formula would also reduce the year to year volatility of the annual COP gross value of production.

**Define and analyze the basis of .06 element in the formula:**

The logic of the .06 is not intuitively clear. The .06 element of the proposed fee formula appears to be an arbitrary number with little or no economic basis. The legislative proponents indicate that the .06 is a "rate of return" (House testimony, July 11, 1995). However, the more common and more appropriate application of a rate of return applies to the costs or investment side rather than to receipts.

**Analyze and discuss relationship of factors to be considered, Sec. 137(c)(3)(E), in developing the surcharge:**

The survey mandated in the proposed legislation is intended to provide data that would allow a market lease rate to be estimated. The mix of data requested is confusing. Some of the data is not directed towards estimating a market lease rate. The additional data would not be sufficient to derive estimates of costs of production or returns from grazing the lease. Some items required by the proposed legislation would duplicate data the National Agricultural Statistics Service (NASS) already collects with its June Agriculture Survey with respect to Private Grazing Land Lease Rates.

Data that pertain to lease characteristics are similar to those gathered in the appraisals done in conjunction with the 1986 Grazing Fee Report and the update in 1992. These appraisals were done to determine the market value of public grazing and similar private grazing. The appraisals were subject to much criticism, especially in their inability to



separate the impacts of various lease characteristics. It is difficult to see how the data that are proposed to be collected would be any more useful now than in the past in determining a surcharge or trespass lease rate.

Other items like State and county location of the lease (item (ii)(IV)), the term of the grazing lease (item (iv)), or payment if not grazed or "taken" (items (v)(I) and (II)) might be useful as identifiers or characteristics, but yield little or no information on lease rates. The items in (vi) appear to be an attempt either to reestimate "total" or "nonfee costs," a methodology whose validity has been seriously questioned by ERS (Appendix G, Draft Environmental Impact Statement for Rangeland Reform '94) and others (Torell, et al. The Value of Public Land Forage and the Implications for Grazing Fee Policy, New Mexico Agricultural Experiment Station Publication Bulletin No. 767, Las Cruces, NM, December 1993), or to obtain data to be used in revising weights for the Input Cost Index (ICI). The ICI has been proposed before (but not in the currently proposed legislation) as a substitute for the Producers Price Index of the current PRIA fee formula.

#### **Discuss availability of this information:**

The National Agricultural Statistics Service (NASS) currently gathers limited information on private grazing land lease rates in terms of dollars and cents per unit (head month, animal unit month (AUM), and pair) that is used to calculate a forage value index (FVI) used in the current PRIA fee formula. This data is gathered during the summer as part of a larger general agriculture survey. This information seems to coincide with what is proposed to be gathered in item (I).

Items (ii)(I) and (II) would be virtually impossible to obtain accurately in any lease where the livestock were not weighed immediately before being put on the leased pasture and immediately after being removed from the leased land. Weighing livestock before and after occupying a leased pasture is not commonly done on leases unless the leases are based on (III) per pound of gain or (IV) per hundredweight of gain. Estimates or guesses of pounds gained from a lease would be highly inaccurate in most cases and would be highly susceptible to many subjective factors.

Knowing the acreage in the grazing lease is of little or no value except on a very local basis because of the wide variation in grazing quality. FS estimates that less than half of national forest acreage actually provides grazing. Riparian areas can supply several times the amount of forage as can more upland areas per acre.

#### **Discuss cost to collect and analyze any additional data:**

The current Farm Costs and Returns Survey costs about \$250 per contact. The 1990 cow/calf version of the FCRS from which national and regional estimates were derived had an estimated cost of about \$500,000. Costs would increase significantly if the survey objective were to obtain county and State estimates of various lease rates. Costs of obtaining sufficient estimates for statistically-reliable county or State estimates could be as high as 15 percent of annual fee receipts, or \$4.5-\$5 million.

## Fee Formulas Compared

\$/AUM

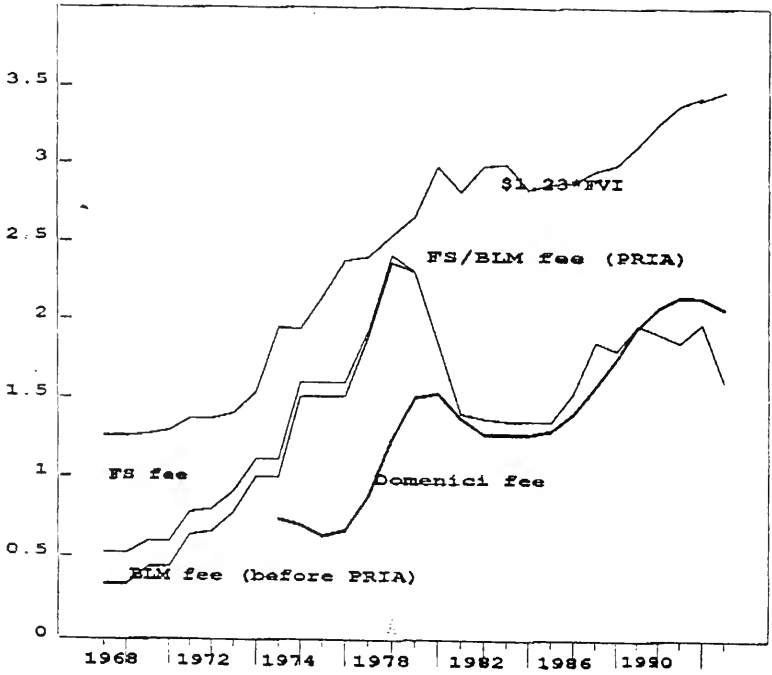


Table 1—Fee rates and fee receipts, 1975-98.

Fee year <sup>1</sup>	BLM fee	Domenici proposal fee rate <sup>3</sup>	National fee receipts <sup>4</sup>		
			At BLM fee rate	At Domenici rate	Difference
			Dollars		
	per AUM	per Head month			
1975	1.00	0.74	15,000,000	11,039,000	3,961,000
1976	1.61	0.70	22,660,000	10,606,000	12,146,000
1977	1.61	0.63	22,660,000	9,512,760	13,137,260
1978	1.61	0.67	22,660,000	10,016,760	12,633,260
1979	1.89	0.88	28,360,000	13,164,760	15,195,250
1980	2.36	1.24	36,400,000	18,664,000	18,606,000
1981	2.31	1.61	34,660,000	22,664,000	12,066,000
1982	1.88	1.63	27,900,000	22,996,260	4,903,760
1983	1.40	1.37	21,000,000	20,676,000	424,000
1984	1.37	1.27	20,550,000	19,062,760	1,467,260
1985	1.36	1.27	20,260,000	19,036,260	1,213,760
1986	1.36	1.27	20,260,000	19,006,760	1,241,260
1987	1.36	1.30	20,260,000	19,466,000	784,000
1988	1.64	1.41	23,100,000	21,061,260	2,018,760
1989	1.66	1.58	27,900,000	23,713,760	4,186,260
1990	1.61	1.76	27,160,000	26,360,760	789,260
1991	1.97	1.96	29,660,000	29,336,760	214,260
1992	1.92	2.09	26,600,000	31,296,260	-2,499,260
1993	1.66	2.16	27,900,000	32,334,600	-4,434,600
1994	1.98	2.15 <sup>5</sup>	29,700,000	32,189,962	-2,489,962
1996	1.61	1.97 <sup>2</sup>	24,160,000	29,667,962	-6,407,962
1996	1.66 <sup>2</sup>	1.83 <sup>2</sup>	23,372,769	27,364,462	-4,011,673
1997	1.36 <sup>2</sup>	1.62 <sup>2</sup>	20,260,000	24,266,600	-4,036,600
1998	1.36 <sup>2</sup>	1.57 <sup>2</sup>	20,260,000	23,466,600	-3,246,600
1999	1.36 <sup>2</sup>	1.61 <sup>2</sup>	20,260,000	24,129,600	-3,879,600
2000	1.36 <sup>2</sup>	1.70 <sup>2</sup>	20,260,000	25,496,000	-5,246,000
2001	1.36 <sup>2</sup>	1.81 <sup>2</sup>	20,260,000	27,092,000	-6,842,000
2002	1.36 <sup>2</sup>	1.82 <sup>2</sup>	20,260,000	27,336,260	-7,066,260
2003	1.36 <sup>2</sup>	1.82 <sup>2</sup>	20,260,000	27,262,260	-7,002,260
2004	1.36 <sup>2</sup>	1.83 <sup>2</sup>	20,260,000	27,413,000	-7,163,000
2006	1.36 <sup>2</sup>	1.86 <sup>2</sup>	20,260,000	27,793,760	-7,543,760

<sup>1</sup> Fees for "Fee year" are based on data from previous year(s). For example, fees for 1993 are based on 1992 data (1990, 1991, and 1992 data for the Domenici proposal).

<sup>2</sup> Projections—based on unpublished ERS baseline data (PRIA fees: FVI indexed with hay prices, BCPI indexed with cattle prices, and PPI indexed with cash costs; gross value of production indexed with COP gross value projections).

<sup>3</sup> Three-year moving average of "Gross value of Production" per bred cow (p. 64), Costs of Production—Major Field Crops & Livestock and Dairy, 1992, U.S. Dept. of Agriculture, Economic Research Service, ECIFS 12-3, August 1994, and previously published Cost of Production data) times .6 and the result divided by 12. Head month is the Domenici proposal billing unit and appears to be the functional equivalent of the current "AUM" billing unit.

<sup>4</sup> These estimates assume 16 million AUM's (Animal Unit Months) are leased annually from the FS and BLM, but do not include the National Grasslands (about 1 million AUM's) or Eastern public lands. The Eastern public lands would be included under the Domenici proposal beginning in 1996.

**Discuss relationship to other fees, market value, etc.:**

Figure 1 shows the relationship of the proposed fee formula and past fee formulas. The Fair Market Value (FMV) formula in effect before PRIA would have resulted in the highest federal grazing fee rate. The proposed fee formula follows PRIA fee rates. Over the past 20 years, the fee would have been below the PRIA rate in the early years and above the PRIA rate in recent years.

Other Federal, State, and local agencies charge their own grazing land lease rates, although some are based on the Federal grazing fee rate.

**Compare historic PRIA fees collected with projected LGA fees over past 20 years:**

Permittees would have had higher net returns by about \$80 million since 1975 if the proposed formula had been in effect (table 1). Fees prior to 1992 would have been lower than PRIA fees actually were. Since, and including 1992, fees would have been higher.

**Project the fee revenues into the 10 year future:**

See table 1.

## ESTIMATED COSTS OF IMPLEMENTING THE LIVESTOCK GRAZING ACT

The following is a section by section analysis of the estimated cost of implementing the Livestock Grazing Act beyond those costs of administering the current regulations. Since, it is difficult to develop a quantifiable estimate of the cumulative costs associated with implementation of the Act as a whole, the analysis only estimates possible costs of individual sections of the Act.

## Sec. 106 LAND USE PLANS

(b) Establish allowable resource uses, related levels of production or to be maintained, areas of use, and resource condition goals and objectives to be obtained

Requires a level of planning beyond current standards for all resources and resource uses. Level of detail is much greater than contained in existing plans. Will require extensive revisions and rewrite of existing LUPs.

Land use plans under current standards cost \$850,000 and take 3 years to complete. It is assumed that this provision alone could raise LUP costs to \$1 mill for the 150 RMPs.

(d) Activities and management actions (1) not clearly prohibited by LUP are considered in conformance (2) shall not require consideration under NEPA

No cost or time savings is anticipated from exemption from NEPA. LUP is last opportunity to review actions under NEPA. Will result in much greater level of detail in LUP than has been required before. LUP will be required to address activity plans and site specific project plans as well as traditional broad management objectives and direction.

This provision will easily double both the time and cost to complete a basic LUP. Additionally, inclusion of activity plans in LUP's will greatly increase complexity and cost. There are currently only 3107 AMPs completed for the 22,000 allotments. Development of the additional 19,000 AMPs would cost \$285 million and, at current funding levels, take over 50 years.

## Sec. 114 CHANGES IN GRAZING PREFERENCE STATUS

(b) Changes in stocking rate shall be supported by monitoring.

The requirement for long term monitoring to support any increase or decrease in stocking rate will add additional monitoring costs. This provision is similar to the former BLM regulations.

Assuming 1/2 work month/year to monitor each allotment and that half the 10,000 1 category allotments require monitoring for a full five years, total cost for monitoring would be \$10 million annually. At current funding levels it would take 25 years to complete monitoring on all 5,000 allotments.

(e)(2)(C)(i) Where monitoring data is not available additional data will be collected in coordination with land grant university and department of agriculture.

Coordination with land grant university and agriculture departments will require development of cooperative agreements or contracts for this consulting work.

It is assumed that this requirement will result in 6-8 contracts or agreements in each state at a cost of \$25,000 per agreement for a total of \$1.75 million. It is also assumed that it will take one year to develop and execute each agreement.

## Sec. 121 ALLOTMENT MANAGEMENT PLANS

See Sec. 106 LAND USE PLANS

## Sec. 122 RANGE IMPROVEMENTS.

(a)(5) Requires cooperative agreement contain terms and conditions that provide incentive to permittee for investing in range improvements.

Incentives are undefined, could be interpreted to mean reduced fees, additional active use, or consideration of expenditures on improvement in calculating fees.

Under any interpretation, incentive will cost the taxpayer. Assuming 1,000 cooperative agreements per year at a value of \$8,000 per improvement and assuming an incentive valued at 10% of the value of the project the total annual cost would be \$800k.

## Sec. 123 MONITORING

(a) Requires that all monitoring be conducted by "qualified personnel"

Bureau typically uses other resource specialists and volunteers, who may be working in the area on other projects, to supplement the routine monitoring work of rangeland specialists, such as trespass inspections, range improvement inspections etc. This requirement will greatly reduce the efficiency of monitoring efforts for these routine tasks.

Assuming that monitoring efforts currently completed by "non-qualified personnel" accounts for 10% of all monitoring, this requirement will increase Bureauwide monitoring costs \$400k annually.

## Sec. 137 FEES AND CHARGES

(b)(2) Provides for progeny born during the authorized use to pay no fees.

The cost of this proposal in the form of lost revenue is difficult to quantify but over time could result in no fees being paid for any grazing permit or lease.

ERS estimates cost to collect this data to be \$500K per year.

Unknown additional cost to calculate surcharge.

The bill will have impact on both the ERS and the agencies administering the fee.

Calculations based on a complex and unexplainable set of criteria. Expected to be so expensive that it will cost more than the revenue generated for surcharges.

Assuming two major lawsuits per state per year and \$500,000 cost to the BLM and the Department of Justice per case, then the additional cost will be \$1 million per year.

Since appeals are limited to permittee/lessee, the litigation costs will doubtless be higher. Other interests will go directly to Federal court since they have no administrative remedies.

Undetermined additional cost to meet excessive burden of proof and deal with additional appeals.

Shifts the burden of proof to the proponent rather than the appellant as has been the historic practice. This shift will further invite harassing appeals, increase the costs of defending the agency, and increase the need for even more paperwork to make BLM decisions litigation-resistant.

Undetermined additional cost of dealing with litigation that would be otherwise handled through appeal.

Eliminates the right of affected interests or anyone except the permittee or lessee to file appeals to formal decisions. It also speeds up the road to Federal court for non-lessees who believe that a formal decision is adverse to their interests, since they do not have to exhaust their administrative remedies, having none.

(C)(1) Requires the Bureau to calculate fees annually base upon data collected by ERS.

(c)(3) Requires calculation of surcharge by the administering agencies.

## Sec. 162 PROTESTS

(a)(1) Only a permittee/ lessee can file an appeal

## Sec.164 APPEALS

(c)(2) Places the burden of proof in an appeal on the proponent of the rule.

(b) Stays decision pending appeal.

Sec. 175 GENERAL PROVISIONS

(a)(2) Requires amendment to advisory council charters only by act of Congress.

Bill will result in the creation of 300-400 new councils and boards in both the BLM and Forest Service.

It is assumed that 2% of all charters will require some sort of amendment each year. The cost to amend each of these by an act of Congress is unknown.

Sec. 177 GRAZING ADVISORY BOARDS

The Bill requires the creation of a GAB for each district where requested by a majority of the permittees.

This provision could result in up to 50 GABs for Bureau administered lands.

It is estimated that it will cost \$50,000 annually to operate each GAB for a total annual cost of \$2.5 mill





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